

1                   "ROUGH DRAFT, NOT PROOFREAD"

2                   THE WITNESS: I do.

3                   DIRECT EXAMINATION

4 BY MR. HARMAN, JR.:

5           Q.    Could you please state your name for the  
6 record?

7           A.    Lucy Goldstein.

8           Q.    And have you ever gone by any other name?

9           A.    I was born Lucille Spampinato.

10          Q.    Is Goldstein a married name?

11          A.    Yes.

12          Q.    Okay. And while working, have you gone by  
13 any other name but Lucy Goldstein?

14          A.    No.

15          Q.    Mrs. Goldstein, have you ever been deposed  
16 before?

17          A.    No.

18          Q.    I don't know if I properly introduced  
19 myself, but my name is Walker Harman. I'm an attorney  
20 and I represent Mr. Friedmann in a lawsuit that he  
21 brought against Raymour and Flanigan. Do you  
22 understand that?

23          A.    Yes.

24          Q.    We are here today to take your deposition as  
25 part of that lawsuit, and we've agreed, due to your

1 health condition, to conduct the deposition in your  
2 home. Do you understand that?

3 A. Yes. Thank you.

4 Q. Have you ever been a party to a lawsuit  
5 before?

6 A. No.

7 Q. Okay. That means you've never been a  
8 plaintiff or a defendant in any lawsuit?

9 A. No. Not that I recollect.

10 Q. Since you've never been deposed before, let  
11 me just go over a few of the ground rules. I've  
12 explained to you who I am and who I represent. I'm  
13 going to ask you a series of questions today  
14 concerning Mr. Friedman's lawsuit. If you don't  
15 understand a question that I ask, please let me know  
16 and I will endeavor to rephrase the question.

17 A. Okay.

18 Q. If you answer the question, however, the  
19 record will read as though you understood the  
20 question. Do you understand that?

21 A. I understand, yes.

22 Q. If you want to take a break, you can take a  
23 break at any time, I just ask that you would finish  
24 any pending questions. So if I ask you a question,  
25 provide an answer and then take a break. Obviously,

1 if you have health issues we'll stop the deposition at  
2 any point that you need to stop the deposition. But  
3 in general I would ask that you answer a question  
4 before you take a break.

5 A. I understand.

6 Q. And that you not confer with counsel before  
7 you answer a question. Do you understand that?

8 A. You are saying if I don't answer a question  
9 to let you know I don't answer it, correct? And if  
10 I'm confused whether to answer or not, to look toward  
11 Jessica.

12 Q. What I'm saying is that you need to provide  
13 your best answer to any question before you either  
14 take a break or before you confer with counsel. You  
15 understand that?

16 A. Absolutely, yes.

17 Q. Are you represented today by an attorney?

18 A. Jessica.

19 Q. Okay. And when did Jessica become your  
20 attorney?

21 A. Yesterday.

22 Q. Okay. So had you conferred with Jessica  
23 before yesterday?

24 A. No.

25 Q. Had you conferred with any other attorney

1 before yesterday regarding this matter?

2 A. Ed Groh called to tell me that I may be  
3 doing a deposition and he wanted to know if I could  
4 fly up to New York.

5 Q. Who is Ed Groh?

6 A. That is his last name, isn't it?

7 MRS. CHICLACOS: I can't help you while you  
8 are answering. So, you just have to answer to best  
9 of your recollection.

10 THE WITNESS: Okay. I believe he is  
11 Raymour Flanigan's, part of Raymour Flanigan's legal  
12 team.

13 BY MR. HARMAN, JR.:

14 Q. And he asked you if you could fly up for a  
15 deposition, and what was your response?

16 A. I couldn't.

17 Q. Okay. What was the reason for that?

18 A. It's hard for me to breath. I have  
19 emphysema. There are days that I get up and I can't  
20 even get down to the car. There are days that I get  
21 up and I feel better. So I'm never sure how I'm going  
22 to, you know, react. It's one of the reasons that I  
23 left Raymour, because I was ill.

24 Q. Okay. I'm going to ask you a few more  
25 questions about your health condition, and I'm not

1     trying to pry into your health condition, I don't want  
2     to upset you.

3             A.     Right.

4             Q.     The sole purpose for my inquiry is to  
5     determine the extent of which you would be available  
6     where we'd have a trial in this matter or where we'd  
7     need to continue your deposition on a later date. Do  
8     you understand that?

9             A.     I do.

10            Q.     When is last time you got on a plane?

11            A.     Two years ago.

12            Q.     And when is the last time you travelled more  
13    than five miles from your home?

14            A.     Well, I came down here in November and I  
15    drove with my husband and we had a nebulizer in the  
16    car.

17            Q.     So you drove here from the New York area in  
18    November?

19            A.     Yes.

20            Q.     And are you required to have a nebulizer  
21    with you at all times?

22            A.     Yes.

23            Q.     Is it not possible for you to get on a  
24    plane?

25            A.     The stress makes my breathing worse. It

1 triggers it. It's one of the worse things that I can  
2 have is stress in my life. So, you know, even this is  
3 extremely stressful for me, but, you know, I'm  
4 doing -- I'm doing it. And between that and the  
5 nebulizer, you know, and trying to breath and not  
6 going into a panic attack and stuff like that, you  
7 know, I just -- I'm very uncomfortable getting on a  
8 plane.

9 Q. Other than the drive from New York in  
10 November, have you taken any other long drives in the  
11 last year?

12 A. No.

13 Q. Do you plan to stay in the Florida area  
14 permanently?

15 A. It's debatable. Actually, I'm going home in  
16 April 1st, we are leaving to go back to New York. My  
17 husband recently went through cancer and we have to  
18 have taxes done and we need to see doctors for me and  
19 him. Unfortunately, my mother-in-law is next door at  
20 96 years old down here and her husband just passed  
21 away. She's with two aides that I see are not  
22 treating her well, so the plan right now is to go  
23 home, take care of things we need to do there, and  
24 then fly back to be hear her.

25 Q. When you say "home," where is that?

1           A.    It's Lindenhurst, Long Island.  Now, here is  
2   the kicker, when I go home, I won't be at home because  
3   my daughter -- my daughter's home was destroyed in  
4   Sandy, so she -- I gave her my place which is a condo,  
5   a one-bedroom condo, with four children and her  
6   husband, so there's not enough room for us to go home.  
7   The reason I want her to stay there is because all  
8   four of her children go to school in Lindenhurst, so  
9   I'm either going to go stay with my son who lives in  
10  Deer Park or my sister-in-law in Roslyn.  I'm not sure  
11  where I'm going to go yet, but you can always reach me  
12  by cell phone.

13          Q.    Okay.  Do you intend to have Jessica  
14  continue to represent you throughout this process?

15          A.    I would assume that would be Raymour's  
16  decision.

17          Q.    Well, actually, that's something you have to  
18  discuss with Raymour.  You are entitled to an attorney  
19  of your choosing or to not have any attorney at all.

20          A.    Well, I assume if this goes further I would  
21  stay with Jessica.

22          Q.    Okay.  If anything changes with respect to  
23  your representation, I would ask that you let my  
24  office know.

25          A.    Sure.

1           Q.    And I'm going to hand you one of my business  
2 cards. Now, right now Jessica is your attorney?

3           A.    Right.

4           Q.    And it is inappropriate for me to speak with  
5 you without Jessica being present.

6           A.    Correct.

7           Q.    But were that to change, for any reason,  
8 you'll let my office know that we can contact you  
9 directly, okay?

10          A.    You are saying if I go with a different  
11 attorney?

12          Q.    You go with a different attorney or if you  
13 elect not to have an attorney at all, if you would  
14 please let my office know.

15          A.    Okay.

16          Q.    What is the best number to reach you at?

17          A.    516-297-4220.

18          Q.    Now, I am taking that number down  
19 understanding you have now represented to me that you  
20 have an attorney and your attorney is Jessica and we  
21 are only going to contact you through Jessica. But if  
22 something changes and we can't locate you or Jessica  
23 informs me that she no longer represents you, then  
24 we'll reach out to you directly by your cell phone.

25          A.    Okay.



1           Q.    I'm sorry, by the way, to hear about all of  
2   your health issues, and I'm sympathetic to them. I've  
3   gone through many situations with my relatives and my  
4   grandparents, and I do understand. This is my job and  
5   I have to do it and I'm under a court order to  
6   complete certain aspects of discovery, so I'm not here  
7   to exacerbate your health condition or to make your  
8   life more difficult. I'm just doing my job and I hope  
9   you understand this.

10          A.    I do. We just all want to get to the truth.

11          Q.    I see that you've already been doing this,  
12   but you'll need to verbalize your answer to any  
13   questions today. So if I ask you a question, you need  
14   to provide a yes or a no or some other form of verbal  
15   answer so that the court reporter can take that down.  
16   The court reporter can't always take down a nod of the  
17   head or some other type of gesture.

18                Along those lines I'd ask that you and I  
19   both, and it's difficult for me, as it is for many  
20   people, to not try to interrupt one another. So let  
21   me finish my question and you can provide an answer.  
22   If your attorney interjects an objects, you still have  
23   to answer the question. If she directs you not to  
24   answer the question, she and I will engage in dialogue  
25   and determine where to go from there. Do you

1 understand that?

2 A. Yes.

3 Q. Are you aware that you are under oath today?

4 A. Yes.

5 Q. And that failing to tell the truth at a  
6 deposition is a crime called perjury. Do you  
7 understand that?

8 A. Yes.

9 Q. The questions I'm about to ask you are  
10 routine question that I would ask anybody at any  
11 deposition.

12 Are you under the influence of alcohol?

13 A. No.

14 Q. Have you had anything to drink in the last  
15 24 hours?

16 A. No.

17 Q. Are you under the influence of any  
18 narcotics?

19 A. When you say "narcotics" ...

20 Q. Are you taking any medications?

21 A. Yes.

22 Q. What medications?

23 A. Xanax.

24 Q. Have you taken Xanax today?

25 A. Yes.

1 Q. Have you taken Xanax as prescribed by your  
2 doctor?

3 A. Yes.

4 Q. Okay. And are you taking any other  
5 medications?

6 A. High blood pressure medicine.

7 Q. Okay. Anything else?

8 A. I'm taking Proventil steroid to help me  
9 breath.

10 Q. So medication --

11 A. I took this today. I took Symbicort today.  
12 I took Spariva this morning. These are all inhalers  
13 to help with my breathing. I did not do any nebulizer  
14 yet, you know, but, you know, I'm hoping that I don't  
15 have to take it until after this is over.

16 Q. Okay. You testified, Mrs. Goldstein, that  
17 you took Xanax. Is that something you take every day?

18 A. Yes.

19 Q. Okay. And other than the medications that  
20 you take for your breathing and for your emphysema,  
21 are you taking any other medications?

22 A. No.

23 Q. Are you taking any medications today that  
24 you believe would impede your ability to testify  
25 accurately and truthfully?

1           A.     No.

2           Q.     Have you been prescribed any medications  
3     that you are not taking?

4           A.     No.   But you know what, I forgot to put down  
5     on that, I want to go back, I'm taking an  
6     antidepressant also, Lexapro.

7           Q.     Did you take that today?

8           A.     I did.

9           Q.     Is that something you take every day?

10          A.     It is.

11          Q.     Can you think of any reason why you could  
12     not provide your best and most truthful answers here  
13     today?

14          A.     No.

15          Q.     Did anyone tell you not to provide truthful  
16     answers here?

17          A.     No.

18          Q.     Have you ever been arrested?

19          A.     No.

20          Q.     Have you ever been terminated from a job?

21          A.     Never.

22          Q.     Have you ever been accused of a crime?

23          A.     No.

24          Q.     What, if anything, did do you to prepare for  
25     today's deposition?

1           A.    Well, we spoke, Jessica and I spoke  
2 yesterday.

3           Q.    Let me just caution you, I'm not asking you  
4 for the content of the conversation that you had with  
5 Jessica or any other attorney because that is  
6 privileged information. What I'm going to ask you  
7 about is with whom you met, how long you met, what you  
8 looked at.

9           A.    Okay.

10          Q.    Do you see the difference?

11          A.    Yes.

12          Q.    So tell me, did you meet with Jessica?

13          A.    Yes.

14          Q.    Okay. When did you meet with Jessica?

15          A.    Yesterday.

16          Q.    Okay. How long did that meeting take place?

17          A.    About an hour, an hour and 15 minutes.

18          Q.    And did you look at any documents?

19          A.    I did.

20          Q.    What documents did you look at?

21          A.    I looked at some of the documentation that I  
22 sent up to human resources, you know, just legal  
23 papers that you usually sent up when you are doing  
24 coaching plans and action plans and things like that.

25          Q.    Do you have copies of those documents with

1     you today?

2             A.     No, I don't remember what I looked at.

3                   MR. HARMAN, JR: I'm going to call for the  
4     production to the extent, and this is really more  
5     Jessica than it is for you, call for the production  
6     of any documents that were reviewed that  
7     Mrs. Goldstein testified that were sent to HR.  
8     BY MR. HARMAN, JR.:

9             Q.     Did you look at any other documents?

10            A.     A payroll slip that is sent up through the  
11     computer once somebody is fired with the reasoning why  
12     they were fired, and the background saying that there  
13     was coaching plans done on this date and this date and  
14     termination was done. That's the only other paper.

15            Q.     When you say "paper," can you tell me -- can  
16     we try to get a little bit more specific in terms of  
17     the documents that you recall looking at. Can you  
18     tell me the first document that you recall looking at?

19            A.     A coaching plan.

20            Q.     Okay. So there's a coaching plan.

21                   What was the second document you recall  
22     looking at?

23            A.     A second coaching plan.

24            Q.     Okay, a second coaching plan.

25                   And the third document, if there was?

1           A.    Those two coaching plans were not done by  
2   me, those were done by somebody else and I'm not sure  
3   who. I don't recognize the signatures on them. And  
4   then there was another coaching plan by me, signed by  
5   me. There was another coaching plan signed by me.  
6   There was the payroll termination done online by me.

7           Q.    Okay. So you've testified to five documents  
8   that you reviewed with Jessica; is that correct?

9           A.    Yes.

10          Q.    And I take it that the payroll termination  
11   online was a printout of what would have been done on  
12   a computer; is that correct?

13          A.    That's correct.

14          Q.    Okay. You didn't look at any other  
15   documents to prepare for today's deposition?

16          A.    No.

17          Q.    Have you ever seen any other documents  
18   related to this matter?

19          A.    There was -- I'm not even sure what it was,  
20   it was -- I think -- I think it was Larry's complaint,  
21   but I never read it yesterday. I never picked it up  
22   and I never went over it at all.

23          Q.    Who gave you Larry's complaint?

24          A.    Well, Jessica had it. She said, do you want  
25   to read this?

1                   MRS. CHICLACOS: Don't discuss the content  
2 of our conversation.

3                   THE WITNESS: Jessica.

4 BY MR. HARMAN, JR.:

5           Q.    Jessica gave it to you?

6           A.    Yes.

7           Q.    And you did not read it?

8           A.    No.

9           Q.    What did you do with it?

10          A.    Gave it back to her.

11          Q.    Do you have any documents in your possession  
12 related to this matter?

13          A.    None.

14          Q.    Okay. And you decided not to read it?

15          A.    Correct.

16          Q.    Why?

17          A.    I don't feel, and I don't know if I need to  
18 say this, I don't feel like I need to read what he  
19 wrote. I'm sitting here today with you to tell the  
20 truth and I just wanted to go in cold and do the  
21 right -- to me this is the right thing, not to read  
22 something that he said about me or this or that. I'm  
23 trying to recollect from two years ago the best of my  
24 knowledge of what went on and I didn't want to read  
25 his statement.



1           Q.    But you do understand that, and I guess  
2    since we are using first names I'll go with Larry too,  
3    if that's okay, since you are calling --

4           A.    That's fine.

5           Q.    -- Mr. Friedmann, Larry.

6                    You know that Larry has sued Raymour and  
7    Flanigan?

8           A.    Correct.

9           Q.    And that although you are not a legal  
10   defendant at this point, that he named you originally  
11   in the lawsuit. You understand that?

12          A.    I do.

13          Q.    Okay. And do you have any understanding of  
14   why he sued Raymour and Flanigan?

15          A.    He's going -- I think he's suing for -- he's  
16   claiming that he was terminated for old age and for  
17   disability, something to that effect, like ...

18          Q.    Anything else?

19          A.    No.

20          Q.    Just bear with me for one second.

21                   MR. HARMAN, JR.: Again, I'm going to call  
22   for the production of all five of the documents that  
23   Mrs. Goldstein reviewed to prepare for her deposition  
24   and I'll follow up with a writing.

25                   MRS. CHICLACOS: They've all been produced.

1 MR. HARMAN, JR.: Okay.

2 BY MR. HARMAN, JR.:

3 Q. What was your relationship like with Larry?

4 A. It was good, very good.

5 Q. Were you friendly with him?

6 A. I would say yes. I mean, you know,  
7 friendly, we didn't go out together, you know, we  
8 never had any kind of personal outside of work, but,  
9 you know, we got along well.

10 Q. And how long did you know Larry?

11 A. I'm thinking. I'm not quite sure when Larry  
12 came to work for me, but Larry was hired when I was in  
13 the first store, in the Glen Cove store. And I'm  
14 trying to remember if I interviewed him and I hired  
15 him or he was hired by somebody else. It goes back so  
16 far, I can't remember. I interviewed so many people.  
17 But he came on board when Raymour was new to the area.  
18 He was with Seaman's prior to. And Huffman Koos had  
19 closed and that's when Raymour took over Huffman Koos.  
20 And I think it was a year later that Seaman's went out  
21 of business and Larry came down for an interview and I  
22 was able to take the best sales associates from  
23 Huffman Koos and the best sales associates from  
24 Seaman's and I found Larry to be in that category.

25 Q. Did you hire Larry?

1           A.    I'm not sure. I think that's the best way  
2 to say it because I don't remember.

3           Q.    You don't remember whether you hired him or  
4 not?

5           A.    Don't remember. You know, I understand that  
6 I was hiring everybody for that store because it was a  
7 brand new store. So, you know, we needed 34 people  
8 and, you know, I had helped with the hiring and I  
9 don't know which one of us -- we used to go trade off  
10 and I interviewed and then the regional would  
11 interview, and we'd go back and forth until we got  
12 everybody hired.

13                   There was a gentleman by the name of Clayton  
14 at that time who used to be a, I forgot what you call  
15 it, a recruiter, and the store wasn't even ours, we  
16 were hiring in a mall. We were meeting people in a  
17 mall, actually. But I don't think that was Larry.  
18 Larry came to the store because those were the Huffman  
19 Koos people that we hired in the mall.

20           Q.    And I don't want to mischaracterize your  
21 testimony, but is it fair to say that Mr. Frid -- or  
22 Larry came with a group of people, that he was hired  
23 with a group, brought on as part of a group?

24           A.    No.

25           Q.    Okay.

1 A. Everybody was individual.

2 Q. Everybody was individual?

3 A. Everybody was individually.

4 Q. This was the new store in Glen Cove?

5 A. Yes.

6 Q. And were you the manager at that store?

7 A. Yes.

8 Q. And you needed 34 people?

9 A. Correct.

10 Q. And of those 34, how many were salespeople?

11 A. That would be my --

12 Q. 34 sales associates?

13 A. As a manager -- as a manager, a store  
14 manager, you are in charge of the sales associates.  
15 Raymour works in just three different ways, a manager  
16 of a store is in charge of the sales associates.

17 Q. And did you, in fact, get 34 sales  
18 associates for the store?

19 A. Yes.

20 Q. And Larry was one of those associates?

21 A. Yes.

22 Q. Do you have any idea how old Larry is?

23 A. I'm not sure. I'm not sure.

24 Q. Would you say --

25 A. I figure he's about my age.

1 Q. How old are you?

2 A. 66.

3 Q. Did you ever discuss his age with him?

4 A. No.

5 Q. Do you ever hear him tell anyone how old he  
6 is?

7 A. No.

8 Q. Did you ever hear discussions with Larry and  
9 anyone else regarding his age?

10 A. No.

11 Q. Of the 34 that were hired, other than Larry,  
12 were any of the other 34 in their sixties?

13 A. Charlie Bruno I believe. God, I'm going to  
14 back, it's so hard to remember. If I can have a -- I  
15 don't have a -- I don't really know everybody's age.  
16 You know, it was not -- I'm not sure.

17 Q. I'm not trying to put pressure on you to  
18 give me exact ages.

19 A. But you are talking about going back --

20 Q. Based on your --

21 A. Sorry.

22 Q. That's all right.

23 Based on your best recollection and what  
24 people said and how they appeared, can you tell me of  
25 the 34 if anybody else was in their sixties? You

1 mentioned Charlie Bruno?

2 MRS. CHICLACOS: Objection to form.

3 THE WITNESS: Arlene, Arlene Cohn, I know  
4 she was older. And understand, now we are going back  
5 to 2005 at this point, so it's a lot of years ago,  
6 you know. It's a lot of years ago for me to go back  
7 because things have changed, people have changed,  
8 some left, some went on, some came with me, but it's  
9 so many years ago that it's hard to remember who my  
10 original staff was, and that's what I'm trying to do.  
11 But I know there was Arlene, I know that there was  
12 Charlie.

13 There were a few older people and, you know  
14 what, age was never ever involved in hiring or not  
15 hiring, it was based on their performance. They came  
16 with documents from Seaman's showing me their -- what  
17 they had done prior, Huffman Koos people, too. You  
18 know, there's always lists of the best writers and,  
19 you know, if you bring that, that's what I was  
20 looking for, the best of the best to bring the store  
21 together.

22 BY MR. HARMAN, JR.:

23 Q. Other than Mr. Bruno and Ms. Cohn, can you  
24 think of anyone else who was older, as you say, as  
25 part of the 34?

1           A.    I think Victor -- well, Victor wasn't -- he  
2   was a manager, I can't say that. I can't remember. I  
3   really can remember.

4           Q.    That's all right. I'm only asking you for  
5   what you can remember based on your personal  
6   knowledge. So if you think of any other names, you  
7   can certainly let me know later on in the deposition.

8           A.    Okay.

9           Q.    So can you tell me what your -- so you began  
10   to manage, is it fair to say that you began to manage  
11   Larry in approximately 2005?

12          A.    Yes.

13          Q.    And what was Larry like as an employee in  
14   2005?

15          A.    Larry was excellent. His numbers were good,  
16   he was focused, he was part of a great team. The  
17   excitement of the store growing, he was part of that.

18          Q.    And did you give Larry any feedback during  
19   2005 regarding his performance?

20          A.    Oh, I'm sure. We had -- always did reviews  
21   with the sales associates, so I'm sure there were  
22   reviews that were sent up on all the sales associates.

23          Q.    Okay. Would you personally complete their  
24   reviews?

25          A.    Some of them, some of them what happens is

1 I'm the store manager, and then there were three  
2 managers, for Glen Cove it might have been two  
3 managers, it wasn't -- the store wasn't that big yet.  
4 And the sales force was divided into groups under  
5 certain manager who helped them, the ones that were  
6 struggling. They would write up their reviews. I  
7 would sit with them while they were doing the reviews  
8 one on one and heard the information going back and  
9 forth. I might have put input in at that point, but  
10 I'm not saying that I wrote every one of them.

11 Q. Okay. But is it fair to say then that you  
12 participated in completing every review?

13 A. Absolutely.

14 Q. Do you recall whether you completed Larry's  
15 review in 2005?

16 A. I don't know.

17 Q. Do you recall whether that review was  
18 positive or not?

19 A. I would say -- you know what, I'm saying it  
20 because Larry was a good sales associate, so I'm  
21 thinking back, it should have been a good review. I  
22 don't know because I don't have the paperwork from so  
23 many years ago, but I don't remember having any  
24 problems with Larry.

25 Q. Okay. What about in 2006, how was Larry's



1 performance as a sales associate at the Glen --

2 A. Cove.

3 Q. -- Cove store?

4 A. Fine, same.

5 Q. When you say excellent performance and  
6 numbers were good, can you describe to me more  
7 specifically what you mean by that?

8 A. Sure. The sales associates are given a  
9 projection of what their numbers are supposed to be  
10 when they come on board. Before they sign up with us  
11 they are given a sales associates projection stating  
12 that -- and it's broken down into months. Sales  
13 associates are supposed to do approximately -- at that  
14 time I think it was 650,000 for the year. I don't  
15 think it was yet 750,000. That was their minimum and  
16 then it was broken down into months, because in sales,  
17 in furniture you have good months and you have bad  
18 months, and then it was broken down like in January  
19 they are supposed to write 11,000 and deliver 15,000  
20 or -- so it's broken down across the board like that.  
21 So when we do reviews, we go back and that's what we  
22 would look at. Okay, Larry, you were supposed to  
23 do -- you were supposed to get 15,000 delivered this  
24 month, and you got 18,000 delivered this month.  
25 Great, you are doing great. You know what I mean?

1 That's how you did a review.

2 Q. And how frequently would those reviews  
3 occur?

4 A. Once a month.

5 Q. And those would be done verbally?

6 A. You could do it verbally and then -- but  
7 then by at least once every three months you had a  
8 written where you sat and, you know, went over the  
9 numbers, you know, like within those numbers it was  
10 broken down into platinum, which was your protection  
11 plan and how good they were doing on that, and how  
12 much bedding they were selling, if they needed help in  
13 certain areas, it was kind of broken down like that.  
14 So you are doing really good here, but let's see if we  
15 can get this up and, you know, things like that.

16 Q. And how about in 2007?

17 A. Larry was still good. I had no problem with  
18 Larry in Glen Cove at all, to the point that when we  
19 opened Garden City, which was the huge box that  
20 everybody was waiting for, I was allowed to handpick  
21 my staff that would go over there. I handpicked Larry  
22 to come with us.

23 Q. So you were responsible for opening a new  
24 store?

25 A. Yes.

1 Q. Okay.

2 A. A big one, that's their biggest and largest  
3 store today.

4 Q. And that Garden City?

5 A. Garden City.

6 Q. When was that store opened?

7 A. 2000 -- what's today the 12th -- 2008. I  
8 think it was 2008.

9 Q. And how many sales associates did you need  
10 for Garden City?

11 A. They started higher with like, I don't know,  
12 I think it was 38, and then we went down again to 34.  
13 I think we were at a minimum -- they were at minimum  
14 of 34 over the years.

15 Q. Of your sales associates at Glen Cove, how  
16 many of your sales associates from Glen Cove did you  
17 take to Garden City?

18 A. I'd have to say about 50 percent.

19 Q. And Larry was included in that?

20 A. Yes.

21 Q. Why did you select Larry?

22 A. Because he was a good sales associate.  
23 Again, he was dedicated, he was performing well, his  
24 momentum was good, his attitude was good, and, you  
25 know, when you are opening a new store, when you are

1 given a store, just like the sales associates have a  
2 performance record given to them to do, a manager is  
3 also given budgets for the year that they need to hit.  
4 So you would take your best sales associates with you  
5 that, you know, would be good enough to perform in  
6 that store. The store was a lot larger, huge.

7 Q. But it didn't have more sales associates  
8 than the Glen Cove store; is that correct?

9 A. No.

10 Q. Okay. It was just a physically larger  
11 store; is that correct?

12 A. Correct.

13 Q. How was Larry's performance in 2008?

14 A. Good. I think Larry was one of the ones  
15 that did huge on a friends and family event. He  
16 focused, he brought people in, he was doing very well.

17 Q. So would you say the same as the previous  
18 years or --

19 A. Yes.

20 Q. -- better or worse? The same?

21 A. The same.

22 Q. You specifically recall a contribution to  
23 the friends and family event?

24 A. Yes.

25 Q. That was positive?

1           A.    Yes.

2           Q.    Okay.  Anything else you recall about his  
3 performance in 2008?

4           A.    No, not anything outstanding and, you know,  
5 the reason is, unfortunately what happens is, you say  
6 good job, you know, good job, good job, good job, and  
7 I'm the type of a manager that always manages with  
8 very positive.  I'm a very positive human being, I  
9 always look at a glass half full.  So if Larry would  
10 come in the office and he did a sale, I would just  
11 immediately say great job, give me five, you know, and  
12 build him that way.  The ones struggling at the bottom  
13 were the ones that were more -- I was more focused on  
14 to try and build them up and bring them back.

15          Q.    So you would say that you were not focused  
16 on Larry because he was doing well?

17          A.    No, I didn't say that.  I did not say that.  
18 I'm saying that I always focused on all the sales  
19 associates, I gave them, if they were good, the  
20 encouragement was there, I always said high five, good  
21 job, you know.  I focused a little bit more on the  
22 people that were under that needed to be brought up.  
23 But they were -- nobody was ever left out with me.  I  
24 always found my time to sit and talk to everybody,  
25 even if it wasn't sitting across the table like this.

1 But if they were on the floor and it wasn't busy, I  
2 would say, come sit with me for a minute, how is  
3 everything going, are you okay, you know, I see you  
4 are doing good on this, keep up the good work. But  
5 never did I not focus on any of them.

6 Q. Okay. Other than the friends and family  
7 event, do you remember anything, any other specific,  
8 aspects of Larry's performance in 2008 that were  
9 positive?

10 A. I don't.

11 Q. Do you remember anything that was negative  
12 about Larry's performance in 2008?

13 A. You know you are going by years and I  
14 can't -- no, I don't, I don't know in 2008. I don't  
15 even remember.

16 Q. Well, let me just -- let me just try to be a  
17 little bit more specific. This would have been the  
18 year after the store opened, so it would have been the  
19 beginning, the first year of the store opening. So  
20 that's the period that I would ask you to focus on.

21 A. Larry did well.

22 Q. Okay. And you don't remember any specifics?

23 A. I don't.

24 Q. Okay. Do you remember anything negative  
25 that occurred in terms of his work performance?

1           A.     No.

2           Q.     Do you remember any issues with Larry's  
3 health in 2008?

4           A.     I don't know if it was in 2008. I know  
5 Larry had health issues, but I don't know if it was  
6 2008, 2009. I'm not sure when Larry -- he went out on  
7 leave for an operation and I'm not sure the dates.  
8 Forgive me, but I just can't remember that.

9           Q.     By the way, of the 34 that you had at Glen  
10 Cove, how many were men?

11          A.     Oh, my God, that was split so equally in the  
12 stores, men and women.

13          Q.     So it's your testimony that approximately  
14 half of the 34 or so were women and half were men?

15          A.     Were very close. I mean, yes, it was very  
16 close, I had Linder and Stacey and Michele and Karen  
17 and Nardy -- there was a lot of women in the store  
18 also, a lot of women.

19          Q.     Okay. I'm really not asking you for the  
20 names, I just want to know -- I just want your  
21 testimony to be clear. You think that half of the --

22          A.     Listen, if I'm saying half, you know, it  
23 could be maybe 17 men and, you know, a little less --  
24 but there were a lot of women there. There were more  
25 men, I believe there were more men, but there were a

1 lot of women there also.

2 Q. Do you recall -- what else do you recall  
3 about Larry's health issues?

4 A. I remember him coming and saying that he  
5 needed an operation. I remember him -- me having a  
6 conversation with him telling him not to worry. When  
7 I hire anybody -- from the day I hire somebody, the  
8 very first words out of my mouth when we are  
9 discussing ... is sit down with them immediately is,  
10 if, if anything happens with your health or with your  
11 family, understand, do not hesitate to come to me,  
12 that comes before anything. And I've lived by that  
13 with everyone of them.

14 Q. Okay. I'm just asking about what you recall  
15 about Larry health issues.

16 A. I remember he had a -- he needed an  
17 operation and I told him not to worry about it.

18 Q. Do you recall what operation he had?

19 A. Something with his back, I believe.

20 Q. Okay. And did he have the operation?

21 A. Yes.

22 Q. And did he take time off from work?

23 A. Yes.

24 Q. Okay. And did he need to fill out paperwork  
25 to take time off of work?



1           A.    I believe he did.

2           Q.    Okay.  As a manager, what is the procedure  
3   for a sales associate to request time off of work for  
4   an operation?

5           A.    That goes through human resources.

6           Q.    And then did you refer Larry to HR?

7           A.    Yes.

8           Q.    And to whom did you refer him?

9           A.    It was either Patty Delgenio or Chris  
10   Rowland.  And I don't know if Chris was on board yet,  
11   she might have been on board.

12          Q.    And how would you have done that?

13          A.    Well, basically I would call them and let  
14   them know that Larry has requested a leave of absence.  
15   And a lot of times they would come down to speak with  
16   him or to fill out paperwork, and, you know, let him  
17   leave or when is it going to be.  And I don't think  
18   Larry left right away, I think he told me the  
19   operation was going to be, so he had time to speak  
20   with them.

21          Q.    Do you recall how much time he took off?

22          A.    I'm thinking 12 weeks.

23          Q.    Do you know if that was paid time?

24          A.    I don't know how they do that.  I've  
25   never -- I really have never been involved in that end

1 of the business.

2 Q. And do you recall when he took 12 weeks of  
3 leave for his back surgery?

4 MRS. CHICLACOS: Objection to the form.

5 MR. HARMAN, JR.: You can answer.

6 THE WITNESS: No, I don't remember the  
7 date.

8 BY MR. HARMAN, JR.:

9 Q. I'm talking about the year, was it in the  
10 first year of the opening of the new store?

11 A. I don't remember. I don't think so. I  
12 don't -- I think that Larry was with me the first year  
13 of the store and we did very well. I don't remember.

14 Q. Okay. Did you terminate Larry?

15 A. Yes.

16 Q. When did you do that?

17 A. June, I think, 2011.

18 Q. Okay. So he worked with you at the Garden  
19 City store from 2008 to June of 2011?

20 A. Yes.

21 Q. Okay. So do you know when the Garden City  
22 store opened?

23 A. 2008.

24 Q. Do you know what time of the year it was,  
25 was it the summertime, was it cold?

1 A. I believe it was October.

2 Q. It was October?

3 A. I believe it was October.

4 Q. So sort of late 2008?

5 A. Yes.

6 Q. So then we've got 2009, we have 2010, and  
7 half of --

8 A. 2011.

9 Q. -- 2011, right. So we've got a little more  
10 than two and a half years, okay.

11 So, during that period, it's your  
12 recollection that he had back surgery, correct?

13 MRS. CHICLACOS: Objection to form.

14 Go ahead and answer.

15 THE WITNESS: Correct.

16 BY MR. HARMAN, JR.:

17 Q. Okay. And do you know whether it was closer  
18 to the opening of the store, whether it was closer to  
19 you terminating him?

20 A. It was in -- I would have to say it was  
21 maybe a year, a year and a half, a year and three  
22 quarters before I terminated him.

23 Q. Okay. So that's going back to sometime in  
24 2010 or 2009, correct?

25 A. Correct.

1 Q. Okay. So he was out, as far as you recall,  
2 for 12 weeks; is that correct?

3 A. Correct.

4 Q. And was he out for any other time period  
5 related to his back?

6 A. I don't believe so.

7 Q. Okay. So it was just that 12 weeks?

8 A. Correct.

9 Q. Okay. And you said his performance overall  
10 in 2008 was good or the same as it had been in the  
11 prior years; is that correct?

12 A. Correct.

13 Q. Do you know what his performance was like in  
14 2009?

15 A. This was when he came back?

16 Q. Prior to his surgery, okay, what was his  
17 performance like? So let's -- we talked about 2008,  
18 there would have been some period in 2009. What was  
19 his performance like leading up to Larry informing you  
20 that he needed to have back surgery?

21 MRS. CHICLACOS: Objection to form.

22 THE WITNESS: I believe for -- I think I  
23 didn't have any problem with Larry in any way until  
24 after he came back from surgery.

25

1 BY MR. HARMAN, JR.:

2 Q. And when Larry was away for the 12 weeks,  
3 was he replaced with anyone?

4 A. No.

5 Q. Okay. And can you describe Larry's job  
6 responsibilities as a sales associate?

7 A. Sure. He greeted people, customers coming  
8 through the door, he worked with them on the floor, he  
9 either made the sale, didn't take the sale.  
10 Afterwards, sales associates, once they start to get a  
11 log of people, they could make a sale and it's not  
12 delivered, so it goes into different reports such as  
13 10/10's, 12/12's, 6/6's, which all mean different  
14 things. And the sales associates, when they are not  
15 on the floor, have the option to sit in the office on  
16 the computer and go through their customers and see,  
17 make phone calls, see if they can get something  
18 delivered that's already been sold, work on people  
19 that were supposed to leave deposits and didn't leave  
20 deposits, certain things like that, that's what the  
21 sales associates do.

22 Q. Do you recall how many hours Larry worked  
23 per week?

24 A. I would say at least 40.

25 Q. Was he required to work a certain amount of

1 hours?

2 A. I think it was 40, yes, 40, 42 they worked.

3 Q. So he was required to actually be in the  
4 store for a certain period of time during a week?

5 A. Yes.

6 Q. Was he compensated for that time?

7 A. Compensated?

8 Q. Meaning was he paid for that time?

9 A. I believe they were paid their salaries,  
10 yes.

11 Q. But he was also paid commission; is that  
12 correct?

13 A. Yes.

14 Q. And were employees allowed to take breaks?

15 A. Yes.

16 Q. Sales associates?

17 A. Yes.

18 Q. What breaks were they allowed to take?

19 A. Two 15-minute breaks, morning and afternoon,  
20 and lunch.

21 Q. And how long was the lunch break?

22 A. They went from -- they are supposed -- I  
23 believe it's a half hour, but they used to take  
24 longer. Especially if they were going out to get  
25 something to bring in and eat in the back, backroom,

1 we had a lunch room.

2 Q. So there were some flexibility for --

3 A. Always flexibility with lunch.

4 Q. Do you have any employees who smoke?

5 A. Yes.

6 Q. Okay. When an employee wanted to take a  
7 cigarette break, would that count toward their  
8 15-minute breaks?

9 A. I would have to say no, I didn't stop  
10 somebody from -- you know, I didn't add it on to their  
11 thing if they went out. The only thing I asked was  
12 that when they smoked, it would be after a customer  
13 they finished with, and their name could not go back  
14 on the list to take another up until after they  
15 smoked.

16 Q. Okay. What about bathroom breaks, did they  
17 count towards the 15?

18 A. No, of course not.

19 Q. And what about getting something to drink,  
20 would that count toward the 15-minute break?

21 A. No.

22 Q. Any other job responsibilities that Larry  
23 had as a sales associate?

24 A. Well, during the sales time of friends and  
25 family, they were asked to bring in a certain amounts

1 of customers into the store, given a budget of how  
2 much they were supposed to do. And, you know, sale  
3 days were always exciting in the stores because you  
4 always had the advertising going on and customers  
5 coming in and it was their chance to make big money  
6 that would cover them now for another month or two.

7 Q. When you say "big money," what do you mean  
8 by that?

9 A. Well, friends and family now it's three days  
10 a week, when we started it was only two days a week.  
11 Friend and family is twice a year and the Goldbergs  
12 give -- the owners of the company give 20 percent off  
13 if, let's say, somebody is buying 2900 -- 29 -- I  
14 think it's 2,999 worth of delivered goods, they are  
15 entitled to 20 percent discount. They are entitled to  
16 15 percent discount if it's over, I think, 2,499, and  
17 10 percent below that or 12 percent below that.

18 So this happened twice a year and,  
19 basically, what happened was you got the best -- your  
20 best customers would kind of know and you would  
21 contact them and you would tell them, okay, I have  
22 another friends and family coming in, you know that  
23 sofa sectional you were looking for, that you said you  
24 were going to do next friends and family, Blah, blah,  
25 blah, and they would come into the store at that time



1 and purchase it. So you could build a clientele of a  
2 lot of people.

3 We also let them handwrite sales in advance  
4 so that the morning of they can input it into the  
5 computer. Those customers would come in, not have to  
6 ask for any of the sales associates, but we as  
7 managers would take them up to the desk, let them get  
8 finished so the sales associates could be taking  
9 somebody else, so there was more of a chance of them  
10 making more sales on those two days and building up  
11 their finances.

12 Q. So prior to Larry going on this 12-week  
13 leave, did you ever write him up for his performance?

14 A. I do not believe so.

15 Q. Did you ever verbally reprimand him?

16 A. I do not believe so.

17 Q. Do you recall any performance issue with  
18 Larry prior to this 12-week period?

19 A. No.

20 Q. While you were at the -- strike that.

21 Was there a certain amount of time that  
22 employees, sales associates were required to stand  
23 during the day?

24 A. They only stood until the next customer came  
25 in. So there was a thing in place where you would

1 have the number -- the one that was getting the next  
2 customer was called the 10 man, then there was a 20  
3 man that was in the second spot, and then the 30  
4 person was in the office waiting to move up. So it  
5 would depend on, of course, how long the next customer  
6 took to come in.

7 Q. So there was a 10 man, a 20 man, and what  
8 was the third thing?

9 A. A 30 man.

10 Q. A 30 man, okay.

11 So how many sales associates were standing  
12 at one time?

13 A. There would be three.

14 Q. And where were the rest of the sale  
15 associates?

16 A. In the office sitting. They are working on  
17 the computer.

18 Q. And how many sales associates would  
19 generally be at the location on any given day?

20 A. Well, the weekends everybody was there  
21 because that's your money days, so everybody was  
22 there, sales, everybody was there. During the week  
23 I'd have to say, you know, 16, 17, some days. It  
24 depended on the day. Mondays were heavier and Fridays  
25 were heavier because Monday was the day after a sale,

1 the weekend, so more sales associates came in to  
2 finish up sales from Sunday or people that were coming  
3 back on Monday from the weekend. Friday was the  
4 beginning of the sale, so they would come in.  
5 Tuesday, Wednesday and Thursday -- Wednesday was an  
6 event day every Wednesday where they would come in and  
7 they were supposed to bring customers back into the  
8 store with a discount, so everybody was in on a  
9 Wednesday. Tuesday and Thursday we were short. We  
10 were like -- I think some were 16 -- I think one was  
11 16 and one was 17, if I'm not mistaken.

12 Q. Okay. I just -- I'm not familiar with  
13 exactly how this works. I'm trying to just ask you  
14 some very basic questions so that I can get clarity on  
15 it.

16 A. Okay.

17 Q. So on a weekend you would have approximately  
18 30 something, 34 to 36 or so sales associates in the  
19 large Garden City store; is that correct?

20 A. Correct.

21 Q. Okay. And they would be disbursed  
22 throughout the store, but you would have three of  
23 those sales associates in line greeting customers?

24 A. Yes, but not all the time. The Garden City  
25 store was so busy that there were times that there

1 would be nobody on line and I would have to call  
2 somebody over to see if they can take a second  
3 customer. Let's say you got somebody with a lamp,  
4 okay, and you had to stay with your customer. Once  
5 you saw that the ups -- there was no more people up on  
6 10, you can come back up and if I -- you know, I would  
7 say to you, take the next one. Can you handle two?  
8 Can you take the next one? And they'd say yes, so  
9 some times they were working with two people. Garden  
10 City was extremely busy store.

11 Q. Okay. And I know this is going to be  
12 somewhat challenging for you, but I'm asking you more  
13 about on a typical day not on the usually busy day or  
14 on the sale day?

15 A. Every weekend was busy in Garden City.

16 Q. Then let's talk about a weekday.

17 A. Okay.

18 Q. On a weekday you said that there would be  
19 approximately 16 or so sales associates, and it would  
20 vary depending on the day but it would be less than  
21 34, correct?

22 MRS. CHICLACOS: Objection to form.

23 THE WITNESS: Yes.

24 BY MR. HARMAN, JR.:

25 Q. And you would have approximately three sales

1 associates lined up?

2 A. Correct.

3 Q. Okay. And would they be physically  
4 standing?

5 A. Yes.

6 Q. Okay. In the front of the store?

7 A. Two out on the floor and one at the doorway  
8 of the office.

9 Q. Okay. And once one of those three  
10 individuals connected with a customer, how was it  
11 determined that another sales associates would get in  
12 line? In other words, you have three, one of those --  
13 and it's not necessarily --

14 A. It's a list that they go by.

15 Q. Do you compile the list?

16 A. No.

17 Q. Who compiles the list?

18 A. The sales associates.

19 Q. The sales associates.

20 And is the list generally equitable? And if  
21 you don't understand what I mean, I'm happy to  
22 explain?

23 A. Well, I'm assu -- no, go ahead, explain.

24 Q. Does it generally -- if I have -- you know,  
25 if I have A through Z associates, does the list

1 generally just go A through Z or does it vary?

2 A. It varies.

3 Q. Why would it vary?

4 A. Well, let's say you get a customer that's  
5 looking for a whole house of furniture and you know  
6 it's going to be a big sale, but you are going to have  
7 to spend time with that customer, okay, where the  
8 person behind you gets a lamp up, they walk the floor,  
9 they don't see anything they like and they walk out.  
10 Once your customer leaves the store, that person will  
11 be able to put his name back on the list and take the  
12 next up coming in.

13 Q. Oh, I see, so the list is circulating --

14 A. It's rotating.

15 Q. -- it's formulating throughout the day?

16 A. Correct. And you make the decision whether  
17 you think the customer -- I mean, you can't take  
18 another up until your customer is out of the store  
19 because we never wanted to leave a customer alone in  
20 the store. You should always be there to answer  
21 questions, of course; be nearby, you know, and just in  
22 case they had questions. And, you know, you don't  
23 want people wondering around the store for simple  
24 reasons they can pick things up and put them in their  
25 pockets, they can walk out, you know, there's a

1 million things.

2 Q. Right, I understand that. I'm just  
3 getting -- I'm trying to get a sense of that  
4 procedure.

5 A. Right.

6 Q. So the only requirement to stand was for the  
7 three sales associates that were the top three on the  
8 list?

9 A. Correct.

10 Q. Two of them were at the front of the store,  
11 one of them was at the door of the office, and you  
12 referred to them as 10 man, 20 man and maybe 30 man?

13 MRS. CHICLACOS: Objection to form.

14 THE WITNESS: Yes, that's correct. And  
15 even -- once they took a customer, once they took  
16 that customer nine out of ten times the sales  
17 associate would be sitting with their customer. So,  
18 in other words, if they stood for 10 minutes, okay,  
19 and then they took a customer and the customer  
20 stopped at the piece, and they sat down on it, the  
21 right form would be for a sales associate not to be  
22 higher than a customer but to sit down kind of  
23 welcoming a customer, okay. So they were never  
24 forced to stand when they were working the customers,  
25 they could sit at a table and discuss what the sale

1     was, they can could sit at a sofa. They only were  
2     required to stand when they -- when a customer came  
3     in, you know, to invite them into the store.

4     BY MR. HARMAN, JR.:

5             Q.     And is that a written policy of Raymour?

6             A.     Yeah.

7             Q.     Where is that written down?

8             A.     I guess the sales rules.

9             Q.     And the sales rules state that you are  
10     supposed to move your body -- that you supposed to sit  
11     down in an inviting way?

12            A.     I don't know if that's written somewhere  
13     but, you know, it just is. I mean, nobody, nobody in  
14     the store -- where it's written, it's written that you  
15     need to stand on 10, 20, 30, but it's not written  
16     anywhere else that you cannot sit when you are working  
17     with a customer and any sales associate --

18            Q.     Okay, that's all I needed to know?

19            A.     Okay, I'm sorry.

20            Q.     It's been a little more than an hour, why  
21     don't we take just a two-minute break. I'd like to  
22     use the restroom again.

23            A.     Sure.

24            Q.     And it's always good every hour or so to  
25     just take a very short break.



1           A.     Okay.

2           Q.     I do not anticipate spending the whole day  
3 with you at all and I would hope to wrap within the  
4 next few hours or so.

5           MRS. CHICLACOS: I have a 6:20 flight, so  
6 if we are going to be later than 4:00 I would need to  
7 know that sooner rather than later.

8           MR. HARMAN, JR.: I can't imagine why we  
9 would be later than 4:00, especially if we don't take  
10 any significant breaks.

11          THE WITNESS: Okay.

12          MRS. CHICLACOS: I don't think we need to  
13 do lunch, I have a little snack.

14          MR. HARMAN, JR.: I don't anticipate -- I  
15 would rather just go directly through, it's what,  
16 it's 11:40 now, we are going to take a quick break  
17 and start again at 11:45. I really -- we do have  
18 some outstanding discovery issues which are before  
19 the court, which I'm not going to get into, I'm not  
20 going to waste time doing that today. But I will  
21 take the position that I will leave this deposition  
22 open pending the Court's resolution if the discovery  
23 issues and your lawyer and I will work together on  
24 what would be the appropriate way to continue your  
25 deposition, if it is deemed appropriate and necessary

1 by the Court. In other words, it might be conducted  
2 by phone, we might never continue your deposition, or  
3 we might continue your deposition perhaps in person  
4 at a later date when you return to work. Do you  
5 understand that?

6 THE WITNESS: Yes, but I don't understand  
7 why.

8 MR. HARMAN, JR.: Well, for instance, it's  
9 not really important to get into, I just want you to  
10 understand that that is a legal issue that is going to  
11 be resolved by the Court. There are some discovery  
12 issues, meaning information and documents that we've  
13 requested that haven't been provided.

14 THE WITNESS: Okay.

15 MR. HARMAN, JR.: To the extent that I have  
16 not had the opportunity to ask you question about  
17 that information or those documents and the Court  
18 orders that those documents or that information be  
19 turned over, I might want to ask you questions about  
20 that.

21 THE WITNESS: I understand completely.

22 MR. HARMAN, JR.: That would be why. It's  
23 certainly not to harass you or to make your life more  
24 difficult, and I just want you to understand that.  
25 I'm trying to make today as simple and easy as

1 possible for everybody. Let me take a quick break  
2 and use the restroom and then --

3 MRS. CHICLACOS: I'd just like to make one  
4 statement on the record, that obviously we are not  
5 agreeing to keep it open, that would be subject to  
6 court order.

7 MR. HARMAN, JR.: Right. Well, I'm taking  
8 the position that the deposition is open and will let  
9 the Court rule on it.

10 MRS. CHICLACOS: I'm taking my position.  
11 Let's take a quick bathroom break.

12 [Short recess taken.]

13 BY MR. HARMAN, JR.:

14 Q. You were a manager at Raymour from 2005  
15 going forward; is that correct?

16 A. Well, actually 2004. I was hired  
17 October 2004 and I did my training up in Connecticut  
18 in Jersey because the store wasn't open yet.

19 Q. What did that training entail?

20 A. Their ways of doing things.

21 Q. Okay. What do you mean by, "their ways of  
22 doing things"?

23 A. Well, I've been a manager for 32 years. I  
24 had three positions in those 32 years and every  
25 company does things a little bit different, so I had

1 to learn their reports, you know, how they opened  
2 their books in the morning, how they closed, just  
3 normal stuff like that. Their vendors on the floor,  
4 you know, simple -- you know, nothing major-major, but  
5 it does take a while. You know, you have to do  
6 repetition.

7 Q. Did you have any training with respect to  
8 discrimination in the work place?

9 A. Yes.

10 Q. And what did that entail?

11 A. It was quite intense and it was done at  
12 least once a year, all the managers had to go through  
13 it and all the assistant managers had to go through  
14 it. The showroom managers had to go through it and it  
15 was done by human resources. We were brought into a  
16 room and we went over everything.

17 Q. What is everything?

18 A. Discrimination, how to speak with  
19 associates, how you speak with customers, what's --  
20 you know, we use to do examples of what is appropriate  
21 and what's not appropriate and wording that you should  
22 use with associates and customers, and wording that's  
23 not permitted to do. We went over, you know, just all  
24 of that kind of -- all those kinds of things.

25 Q. With respect to age, what would be an

1 example? Did you ever discuss some what types of  
2 statements would be inappropriate with respect to age?

3 A. Age? You never ask anybody their age.  
4 Basically, you know, age was not an issue, ever, ever  
5 in Raymour and Flanigan.

6 Q. When you say "age was not an issue at  
7 Raymour" -- strike that.

8 The questions I'm asking you today are based  
9 on your personal knowledge only.

10 A. Correct.

11 Q. So did Raymour and Flanigan have a policy  
12 against age discrimination?

13 A. Yes.

14 Q. Okay. And then the next question I would  
15 have is, just based on your own personal observation,  
16 your own personal knowledge, did you ever observe  
17 anybody being discriminated against based on their  
18 age?

19 A. No.

20 Q. Did you ever overhear an inappropriate  
21 comment with respect to someone's age?

22 A. No.

23 Q. Did you ever observe an inappropriate  
24 comment in the workplace with respect to someone's  
25 race?

1           A.     No.

2           Q.     Did you ever observe an inappropriate  
3     conduct with respect to someone's gender?

4           A.     No.

5           Q.     You said that everything was discussed at  
6     the discrimination training which was intense and took  
7     place once a year. Was disability discussed during  
8     the discrimination training?

9                   MRS. CHICLACOS: Objection to form.

10                  THE WITNESS: I'm not understanding the  
11     question.

12     BY MR. HARMAN, JR.:

13           Q.     If someone has a physical -- do you  
14     understand what I mean by disability, by physical  
15     disability?

16           A.     Of course, some kind of a physical --

17           Q.     For now, for the sake of the deposition,  
18     unless I clarify it further, I mean any physical or  
19     mental impairment.

20           A.     Okay.

21           Q.     Okay.

22           A.     Yes, it was discussed where anybody, anybody  
23     that had any kind of a problem with any kind of a  
24     disability, you were to be lenient with and help them  
25     in any way that you could.

1 Q. And are you referring to customers?

2 A. I'm referring to sales associates,  
3 customers, whomever.

4 Q. And did you ever have -- did you ever manage  
5 a sales associates with a disability?

6 A. Well, it depends what you call disability.

7 Q. Okay. Well --

8 A. You know, somebody that's pregnant is  
9 considered a disability, yes. Somebody that's hurt or  
10 back on leave from an operation, I guess you can say  
11 that's a disability, I would say yes. So I would have  
12 to say overall, yes, I have, you know, managed people  
13 with disabilities.

14 Q. Okay. Who did you manage that was pregnant?

15 A. Linda Salerno, twice.

16 Q. Salerno?

17 A. S-a-l-e-r-n-o.

18 Q. She was pregnant twice?

19 A. With me, Huffman Koos.

20 Q. And that was not at Raymond and Flanigan?

21 A. (Witness shakes head side to side.)

22 Q. Okay. And let's just stick with the times  
23 that you were at Raymour and Flanigan from 2004 going  
24 forward.

25 During that period, did you manage anyone

1 with a disability? When I say "disability," I'm  
2 talking about based on your training and your  
3 extensive experience as a manager, anyone you  
4 considered to have a disability.

5 MRS. CHICLACOS: Objection to form.

6 THE WITNESS: I'm not sure if it's a  
7 disability. Rafael Gonzalez, he works with a limp,  
8 he walks with a cane. I think Charlie Bruno was out  
9 on an operation and he came back, but I think he was  
10 okay when he got back. Those are the only two that I  
11 would think of.

12 BY MR. HARMAN, JR.:

13 Q. Do you recall what type of operation Charlie  
14 Bruno had?

15 A. No, I don't remember, it was a while ago.

16 Q. And Mr. Gonzalez, did he always have a limp?

17 A. Yes, we hired him that way. He was hired  
18 that way. He came from Seaman's.

19 Q. How old approximately was Mr. Gonzalez?

20 A. I think that Rafael is -- I'm not good at  
21 age, I'm really not. I don't --

22 Q. Older or --

23 A. He's younger than me for sure, but he does  
24 have children. Maybe 50s. I hope I didn't make him  
25 too high.



1           Q.    That's all right. Mr. Gonzalez, does he get  
2 in line as per the policy with respect to 10 --

3           A.    He does.

4           Q.    -- 20 and 30?

5           A.    He does.

6           Q.    And has he ever expressed any difficulty in  
7 getting in line for the 10, 20 or the 30?

8           A.    No.

9           Q.    And how about Mr. Bruno, when he returned  
10 from his operation, did he express any difficulty in  
11 getting in line with the 10, 20, 30?

12          A.    No.

13          Q.    Has any employee that you managed from 2004  
14 going forward, ever expressed any difficulty in  
15 getting in line with the 10, 20 or 30?

16          A.    No.

17          Q.    Okay. So just so the record is clear --

18          A.    Yes.

19          Q.    -- and you are under oath, and this is --  
20 might be my only opportunity to ask you these  
21 questions, I don't know. We might, as I said, have a  
22 continued deposition or we might have a trial.

23                During your tenure managing at Raymour and  
24 Flanigan from 2004 until you left, did you ever have a  
25 sales associate express any difficulty at any time in

1 completing their 10, 20, 30 obligations?

2 A. When you are saying to me did they --  
3 nobody liked to stand on 10 because, you know, they  
4 don't know when the next customer is coming in, okay.  
5 But nobody said they couldn't stand on 10 for any  
6 reason. So, you know, one thing is a little bit  
7 different than the other.

8 Q. So nobody liked to stand on 10?

9 A. Correct.

10 Q. Why is that?

11 A. Well, because you are standing there, you  
12 are waiting for the next customer to come in,  
13 sometimes it can be 10 minutes, sometimes it could be  
14 40 minutes, you know, but you are the next one up and  
15 it doesn't happen, you know, constantly, you know,  
16 where you are waiting a long time for an up, but you  
17 can get caught waiting a long time for an up.  
18 Sometimes they come in one, two, three in a row.

19 Q. But on a slow day it could be a long period  
20 of time?

21 A. It could be.

22 Q. And you are standing there?

23 A. Yes.

24 Q. And that's right in the front of the store?

25 A. That's correct.

1 Q. And nobody liked to do that?

2 A. Right.

3 Q. But at some point everybody was required to  
4 do it?

5 A. Every day.

6 Q. From 2004 until you left Raymour and  
7 Flanigan, did you, setting Larry aside, did you  
8 terminate any employees?

9 A. There goes my head again. I'm really  
10 getting old.

11 Yes, I know I terminated -- I don't know, I  
12 can't remember the names now, but I know I terminated.  
13 Hang on, let me think. You know, I haven't been in  
14 Raymour for almost a year and a half because I retired  
15 myself.

16 Q. So you are permanently retired now?

17 A. Well, at this point I'm not going back, you  
18 know. I can't -- I can't walk the floor anymore. I  
19 can't do the work anymore.

20 Q. Are you being paid by Raymour and Flanigan?

21 A. No.

22 Q. So you are not currently an employee?

23 A. No.

24 Q. Okay. And you have no intention to return  
25 as an employee?

1           A.    No, but it's hard to recollect and I know --

2           Q.    Well, let me just --

3           A.    I can picture them and I'm not -- I can  
4 picture them and I can't think of the names.

5           Q.    I don't want you to speculate, and let me  
6 try to help you a little bit.

7           A.    Okay.

8           Q.    During the Garden City period, that is the  
9 new store?

10          A.    Yes.

11          Q.    Okay. Did you terminate any employees  
12 during that period?

13          A.    Yes.

14          Q.    Okay. And can you tell me their names?

15          A.    I'm thinking of a young fellow, I can't  
16 remember his name.

17          Q.    So you remember a young fellow?

18          A.    A young fellow who, you know, just always  
19 came in late, wasn't performing, I couldn't, you know,  
20 count on. Oh, God, I can't remember his name. I  
21 can't remember his name. Oh, my God, where did my  
22 mind go?

23          Q.    Do you remember anything about him? You  
24 said he was young, do you remember anything else about  
25 him?

1           A.    Yes, he was a good looking, young boy that  
2 just got married. God, I can't remember.

3           Q.    How long did he work for you?

4           A.    I think he was with me for two years prior  
5 to --

6           Q.    Did he ever meet his sales figures?

7           A.    He was on coaching plans as well.

8           Q.    Was he on coaching plans the entire time?

9           A.    No.

10          Q.    How long was he on coaching plans?

11          A.    Maybe three, four months.

12          Q.    I'm going to leave that blank in the  
13 transcript. If you could please let your lawyer know,  
14 if you happen to remember the name of the individual  
15 that was -- that you believed that was terminated, the  
16 young fellow?

17          A.    Okay.

18          Q.    I'm going to call for production of any  
19 documents related to the termination of the younger  
20 individual that you believe was terminated for poor  
21 performance.

22                Can you think of anybody else at the Garden  
23 City location that you terminated?

24          A.    No.

25          Q.    Do you recall the circumstances of his --

1 strike that.

2 Can you explain to me why this young fellow  
3 was put on a coaching plan?

4 A. His numbers were failing and he wasn't  
5 showing up, he was always late -- and he always late.

6 Q. So he was always late. Is that most every  
7 day he was late?

8 A. Yes.

9 Q. Okay. And is as far as his numbers were  
10 concerned, can you explain to me what you recall with  
11 respect to the young fellow not meeting his numbers?

12 A. Again, he was below the 750 mark that was  
13 supposed to be done in Garden City. When you have  
14 somebody on a coaching plan, I don't want to go on and  
15 on because I shouldn't, but when you have somebody on  
16 a coaching plan, if let's say -- I don't know if I  
17 said this before, in January, if you see improvement,  
18 you can extend their coaching plan because you are  
19 seeing improvement. So as long as we are seeing the  
20 improvement going up, you say, okay, you are here.  
21 But there are times when they fall so far behind,  
22 there is no way they are coming back, they are really  
23 lost and they can't make -- you can't get them back to  
24 that way that much. You can't get them back to the  
25 numbers that they need to make.

1 Q. So they need to complete 750 in one year?

2 A. Correct.

3 Q. Okay. And how many sales associates did you  
4 have working for you in the last year? Tell me when  
5 you retired or left -- what term do you prefer,  
6 retired or left?

7 A. Well, I went out on disability first.

8 Q. Okay. When you went out on disability, when  
9 was that?

10 A. August 2000 -- oh, God, is it 11? '11.

11 Q. And when did you terminate Larry?

12 A. June.

13 Q. Okay. So from August of 2010 to August  
14 of 2011, how many sales associates did you manage at  
15 that store, do you believe?

16 A. 34.

17 Q. Were all 34 required to hit \$750,000 in  
18 sales?

19 A. That's their mark.

20 Q. Of the 34 or so, did they all complete  
21 \$750,000 in sales?

22 A. No, there were -- going through the year  
23 there were sales associates on coaching plans like  
24 Larry.

25 Q. Who else was on a coaching plan?

1           A.    Rafael was on the coaching plan and he  
2 managed to get himself back.

3           Q.    And is Rafael that gentleman with the cane?

4           A.    Yes.

5           Q.    Okay. And was anybody else on a coaching  
6 plan?

7           A.    I'm thinking. I know Karen was struggling  
8 and I -- would you believe I can't even remember her  
9 last name? Karen ... she's still there, though.

10          Q.    Okay. I'm asking you specifically who was  
11 put on a coaching plan.

12          A.    Yeah, Karen.

13          Q.    Karen was put on a coaching plan?

14          A.    Yeah.

15          Q.    And Rafael was put on a coaching plan?

16          A.    Yes.

17          Q.    And Rafael is still there, as far as you  
18 know?

19          A.    Yes.

20          Q.    Well, it doesn't matter what's going on now.  
21                Up until the time that you left, Rafael was  
22 still there, you hadn't terminated him?

23          A.    He brought himself out of --

24          Q.    Please just answer my -- you just need to  
25 answer my question. I'm not trying to be difficult,



1 but Rafael wasn't terminated; is that correct?

2 A. Correct.

3 Q. And Karen was put on a coaching plan; is  
4 that correct?

5 A. Yes.

6 Q. She wasn't terminated?

7 A. No.

8 Q. How old is Karen?

9 A. Thirties, I guess.

10 Q. You think Rafael is in his 50s?

11 A. Yes.

12 Q. Okay. Anybody else put on a coaching plan?

13 A. I don't remember. I don't remember.

14 Q. And so of the 34, can you tell me  
15 approximately how many met the \$750,000 mark?

16 A. Well, you know, what are you talking about,  
17 years end?

18 Q. Okay. Well, let's talk about the year end  
19 2010, because that would have been the last complete  
20 full year before you terminated Larry and you left on  
21 disability leave, so let's talk about 2010.

22 The year end 2010, of the 34 or so, because  
23 I'm not sure we are clear that's an exact number, but  
24 of the approximately 34 sales associates, how many  
25 completed the \$750,000 target?

1 MRS. CHICLACOS: Objection to form.

2 MR. HARMAN, JR.: You can answer.

3 THE WITNESS: I am thinking it was 33. I  
4 remember -- yeah, I think it was about 33.

5 MR. HARMAN, JR.: I'm going to call for the  
6 production related to the 2010 sales figures for  
7 the -- sorry, the 2010 year end sales figures for the  
8 associates.

9 BY MR. HARMAN, JR.:

10 Q. Who was the individual that did not complete  
11 the \$750,000 mark?

12 MRS. CHICLACOS: Objection to form.

13 THE WITNESS: Don't remember.

14 BY MR. HARMAN, JR.:

15 Q. Okay. But you remember that one did not?

16 A. Well, the reason I remember is because just  
17 like we do reviews with sale associates, my vice  
18 president, Jim Powers, did reviews with us, the  
19 sales-- the managers. And at the end of the year I  
20 remember going through it and him saying, you had an  
21 excellent year, you only had one under, or something  
22 to that effect.

23 Q. What, if anything, changed in 2011? Sounds  
24 like you had a pretty good year in 2010, right?

25 A. The year was good.

1 Q. You had one under?

2 A. Yes, business was good.

3 Q. Right. So the vast majority of your sales  
4 associates, almost all of them performed except for  
5 one?

6 MRS. CHICLACOS: Objection to form.

7 THE WITNESS: If I'm remembering correctly.  
8 You know, remember, I'm doing this from guessing. I  
9 didn't look at papers before, I didn't prime myself.

10 BY MR. HARMAN, JR.:

11 Q. I'm only asking --

12 A. I know, I just want you to understand.

13 Q. -- what you remember.

14 A. Here I am.

15 Q. And Larry was working for you in 2010?

16 A. Yes.

17 Q. And Larry met his target in 2010?

18 A. Again, if it was the year -- you know, I  
19 can't recollect if it was 2010. It could have been  
20 Larry, yeah. I mean, I don't know. I don't know who  
21 the person is that was under, I don't remember.

22 Q. What about 2009, did you still have  
23 approximately 30 sales associates that you managed in  
24 2009?

25 MRS. CHICLACOS: Objection to form.

1 THE WITNESS: Yes.

2 BY MR. HARMAN, JR.:

3 Q. Okay. And do you recall how many of the 34  
4 or so in 2009 met the \$750,000 mark?

5 A. I don't remember.

6 Q. Do you recall being told in your review that  
7 anyone was under in 2009?

8 A. I don't remember. I have to tell you, I  
9 just don't remember.

10 Q. You testified that you had in another job  
11 for another company, you had a woman who became  
12 pregnant. Did you ever have an employee become  
13 pregnant while you were at Raymour and Flanigan?

14 A. I think Nardy was pregnant when I was there.

15 Q. What year would that have been?

16 A. 2011. She went out on disability or leave  
17 of absence.

18 Q. Do you recall how long she was gone?

19 A. I don't think she was back when I left. She  
20 wasn't back yet.

21 Q. Was that the first time she had taken leave  
22 for maternity?

23 A. Yes.

24 Q. And you testified earlier that Bruno took a  
25 leave due to having surgery; is that correct?

1 MRS. CHICLACOS: Objection to form.

2 THE WITNESS: Yes.

3 BY MR. HARMAN, JR.:

4 Q. Do you recall when that was?

5 A. No.

6 Q. Do you recall if it was in the Garden City  
7 location?

8 A. It was in the Garden City location.

9 Q. Okay. So that would have been --

10 A. Anywhere from 2008 up.

11 Q. 2008 up. And do you recall approximately  
12 how long she was gone?

13 A. No.

14 Q. Okay. Was it more than a few weeks?

15 A. Yes.

16 Q. Was it a few months?

17 A. I can't recall, I really can't.

18 Q. Well, can you tell me, was it a year?

19 A. No.

20 Q. Okay. So it was less, it was -- I'm just  
21 trying to get an approximation from you, if you  
22 recall.

23 A. And I'm answering you the best that I can.

24 Q. More than a few weeks but not a year?

25 A. Right.

1 Q. Okay. And I take it that Bruno was also  
2 required to hit the \$750,000 mark?

3 A. Correct.

4 Q. Okay. Was he still required to hit the  
5 \$750,000 mark even though he was out of work for a  
6 significant period of time?

7 MRS. CHICLACOS: Objection to form.

8 THE WITNESS: How do I answer this? I  
9 would say everybody that was out on disability leave  
10 or something like that was given extra time when they  
11 come back. In the 32 years I've been a manager in  
12 different companies, sales associates always have a  
13 number to hit. If in Huffman Koos, if you didn't hit  
14 that number --

15 BY MR. HARMAN, JR.:

16 Q. Mrs. Goldstein, I'm sorry to interrupt, but  
17 I'm going to ask you to just answer my question  
18 because this is unfortunately --

19 A. Then I can't answer it. I don't know how to  
20 say it.

21 Q. Raymour and Flanigan -- does Raymour and  
22 Flanigan -- you testified that there was a policy that  
23 the sale associate had to hit \$750,000 in sales; is  
24 that correct?

25 MRS. CHICLACOS: Objection to form.

1                   THE WITNESS: That is correct.

2       BY MR. HARMAN, JR.:

3           Q.     And when someone such as Charlie Bruno takes  
4     leave during that annual period, are they required to  
5     still hit the \$750,000 mark?

6           A.     No.

7           Q.     Okay. And so when Nardy took maternity  
8     leave, would she still have been required to hit the  
9     \$750,000 mark?

10          A.     No.

11          Q.     And so when Larry took leave for his  
12     surgery, would he still have been required to hit the  
13     \$750,000 mark?

14          A.     No.

15          Q.     And can you explain to me how that -- would,  
16     for instance, a different sales target be set for an  
17     individual that took a leave for medical reasons?

18          A.     It's not a different -- it's not a different  
19     sales target. I explained to you before if somebody  
20     comes back and they are given a number of 15,000 for  
21     that month and they pull 17, 18,000, they are going in  
22     the right direction and you can get extended as long  
23     as you need, as long as they are continuously climbing  
24     the ladder, okay. So Larry was on a coaching plan for  
25     a long, long time when he came back. We made it a

1 point, because of his past record of how good he was  
2 and because he was out on disability, we gave him the  
3 benefit of going on and on and on. Even when he  
4 wasn't performing we tried to do everything we could  
5 to get him back to where he was.

6 Q. When was Larry first put on a coaching plan?

7 A. May. Was it May? I'm not sure. I don't  
8 have his paper in front of me.

9 Q. Okay. But you reviewed some papers  
10 yesterday?

11 A. Yes, but I didn't -- I really didn't look at  
12 everything.

13 Q. Okay. Well, you just testified that Larry  
14 was on coaching plan for a long, long time?

15 A. He was.

16 Q. What do you mean by "a long long time"?

17 A. Okay. And maybe -- well, let me say it a  
18 different way, maybe I said it wrong. When Larry came  
19 back, and I'm not sure the date he came back, I think  
20 we gave him the benefit of the doubt and we didn't put  
21 him on a coaching plan hoping to get him, his numbers  
22 back up. So Larry could have been going down and --

23 Q. Mrs. Goldstein, I am not asking you to  
24 speculate here today.

25 A. I'm not speculating.



1           Q.    I'm asking you to tell me what you remember  
2 specifically from your recollection, okay. How long,  
3 if you recall, was Larry own a coaching plan?

4           A.    I don't know.

5           Q.    Okay. You testified earlier that he was on  
6 a coaching plan for a long, long time, that was your  
7 testimony. Do you want to change your testimony?

8                   MRS. CHICLACOS: Objection to form.

9                   MR. HARMAN, JR.: Okay.

10                   THE WITNESS: Yes.

11 BY MR. HARMAN, JR.:

12           Q.    How long was Larry on a coaching plan?

13           A.    I don't know.

14           Q.    Okay. And then you testified that you  
15 had -- well, strike that.

16                   Do you recall when Larry returned from his  
17 medical leave?

18           A.    I don't remember. Dates, I don't remember.

19           Q.    Okay. Do you recall how long a period of  
20 time it was between when he returned from his medical  
21 leave and when you terminated him?

22           A.    No.

23           Q.    Okay. Was it longer than a year?

24           A.    I don't know.

25           Q.    Did Larry ever tell you that he needed an

1 accommodation with respect to his medical condition?

2 A. No.

3 Q. Okay. Do you know what his medical  
4 condition was at the time?

5 A. No. I think he had something with his back.

6 Q. Did you ever ask him?

7 A. I'm sure I did. I'm sure Larry told me.  
8 I'm sure we had this discussion, and quite honestly I  
9 don't remember.

10 Q. You don't remember -- do you remember if --  
11 do you remember any discussions you had with him after  
12 he returned with respect to his condition?

13 A. No.

14 Q. Was it your recollection that the surgery  
15 that he had was successful?

16 A. I don't remember.

17 Q. Did he ever complain about his physical  
18 condition after he returned?

19 A. No.

20 Q. How often did you speak with Larry?

21 A. Every day that he was there.

22 Q. Okay. And what kind of conversations --  
23 what would you talk about?

24 A. Business, his, you know, 10/10's. We were  
25 coming up on friends and family, if he was doing his

1 business that way. You know, just business.

2 Q. Did you talk to him about his personal life?

3 A. No.

4 Q. Do you know whether he was married?

5 A. No, I don't know.

6 Q. Do you know where he lived?

7 A. Bayside, I believe.

8 Q. And do you know if he vacationed?

9 A. Yes.

10 Q. How do you know that?

11 A. Because he said that he went out to the  
12 Hamptons.

13 Q. Okay. Do you know anything else about his  
14 personal life?

15 A. No, I know he has children. I know he has a  
16 son, I think.

17 Q. Okay. Anything else about his personal  
18 life?

19 A. No.

20 Q. Did Larry ever take sick days?

21 A. I don't know. I'm sure he did. I don't  
22 know.

23 Q. If Larry wasn't feeling well, do you think  
24 he would have told you? I'm not asking you to  
25 speculate, but did you have that kind of relationship?

1           A.    I would hope so, yes, absolutely, he would  
2    have.

3           Q.    Did he ever leave early from work?

4           A.    I don't remember. Did associates leave  
5    early? Sure. Did they come to me and say they  
6    weren't feeling, well, of course.

7           Q.    When Larry returned from work, did he get  
8    right back into the system of having to participate in  
9    the 10, 20, 30?

10               MRS. CHICLACOS: Objection to form.

11               THE WITNESS: I believe so, yes.

12    BY MR. HARMAN, JR.:

13           Q.    When you say "believe so" --

14           A.    I don't remember anything --

15           Q.    Unusual?

16           A.    -- unusual about him not wanting to go on  
17    10, 20 or 30.

18           Q.    Okay. So did he ever say anything to you  
19    negative about participating in the 10, 20, 30?

20           A.    No.

21           Q.    Did he ever refuse to participate in the 10,  
22    20, 30?

23           A.    No.

24           Q.    Did he ever complain about having to stand  
25    for long periods of time during the 10, 20, 30?

1 A. No.

2 Q. Did he ever ask to take a break during the  
3 10, 20, 30?

4 A. No.

5 Q. And did there come a time, because you've  
6 almost entirely said positive things about Larry's  
7 performance; is that correct?

8 A. Correct.

9 Q. And did there come a time when you were not  
10 pleased with his performance?

11 MRS. CHICLACOS: Objection to form.

12 THE WITNESS: Yes.

13 BY MR. HARMAN, JR.:

14 Q. When was that?

15 A. I felt he gave up. He wasn't giving it his  
16 all.

17 Q. You felt he gave up, when did he give up?

18 A. After he came back from his surgery and we  
19 were trying to get him back up and running, it wasn't  
20 the same Larry.

21 Q. What do you mean by that?

22 A. His motivation wasn't there, he wasn't  
23 trying to produce the way he used to. He became, I  
24 don't know, I guess, you know, lazy.

25 Q. You felt he was lazy?

1           A.    Yes.

2           Q.    What do you mean by that?

3           A.    He wasn't trying to -- I didn't believe he  
4 was trying to bring his numbers up. He wasn't -- I  
5 remember before his friends and family where he was so  
6 good at prior, in all the years prior, he didn't work  
7 his. He didn't work his friends and family that May.

8           Q.    You are positive he didn't work his friends  
9 and family that May?

10          A.    Yes.

11          Q.    What do you mean by that?

12          A.    Friends and family you are supposed to bring  
13 a certain amount of people in, you are supposed to  
14 bring certain amounts of numbers in, and I'm pretty  
15 sure, I'm not going to put, you know -- I'm more than  
16 pretty sure that that was one of the reasons. I think  
17 Larry only did \$9,000 for the two days and I can't be  
18 a hundred percent accurate, but I am almost certain  
19 about this in my mind.

20          Q.    Were you having problems with anybody else's  
21 performance during the same period?

22          A.    I think we went through this before. I  
23 think it was Rafael that was on a coaching plan. I  
24 think it was Karen that was on a coaching plan.

25          Q.    Anybody else?

1           A.     Not that I can recall right now.

2                   MR. HARMAN, JR.:   Okay.   Again, I'm calling  
3     for the production of the coaching plans for Rafael  
4     and the coaching plans for Karen that were referred  
5     to by Mrs. Goldstein.

6     BY MR. HARMAN, JR.:

7           Q.     Were there monthly reports generated of  
8     people's sales performance?

9           A.     Yeah, but we didn't do written ones every  
10    month.   We sat, you know, their team captains, their  
11    showroom manager sat with them and went over.   Written  
12    ones was done like every two, two, three months.

13          Q.     Every two to three months?

14          A.     Yes.

15          Q.     So is it fair to say that sometime in 2011,  
16    there would have been at least one written report of  
17    the sales performance of Larry; is that correct?

18          A.     Sure.

19                 MR. HARMAN, JR.:   Okay.   To the extent  
20    that's not been produced, I'm going to ask for the  
21    production of that.

22    BY MR. HARMAN, JR.:

23          Q.     And there would have also been a written  
24    report for the sales performance of Rafael; is that  
25    correct?

1 A. Correct.

2 Q. During the first six months of 2011?

3 A. Correct.

4 MR. HARMAN, JR.: Okay. I'm calling for  
5 the production of that and any other written report  
6 of Rafael's sales performance during 2011.

7 BY MR. HARMAN, JR.:

8 Q. And I take it there would have also been a  
9 written report of the sales performance of Karen  
10 during the 2011; is that correct?

11 A. Yes.

12 Q. At least one, probably several; is that  
13 correct?

14 MRS. CHICLACOS: Objection to form.

15 THE WITNESS: Yes.

16 BY MR. HARMAN, JR.:

17 Q. Okay. You testified that -- earlier in the  
18 day you testified every three months, moments ago you  
19 testified that it was every two months, so it's every  
20 two to three months?

21 MRS. CHICLACOS: Objection to form.

22 THE WITNESS: Depends how busy it is. In  
23 other words, if it's a friends and family month that  
24 it's due and we want them to focus more on the  
25 business coming in, then we push it to the next



1 month. Everything had to do with business.

2 BY MR. HARMAN, JR.:

3 Q. Okay. So it's your recollection that Rafael  
4 and Karen and Larry were the only that had been given  
5 coaching plans in 2011; is that correct?

6 MRS. CHICLACOS: Objection to form.

7 THE WITNESS: No, I'm saying I'm not sure  
8 who else, but I think there were --

9 BY MR. HARMAN, JR.:

10 Q. There were others?

11 A. -- there were others.

12 Q. But you are not sure who?

13 A. No.

14 Q. Why do you think there were others?

15 A. Because I remember there being a few that  
16 were in trouble.

17 Q. Okay. What makes you think that there were  
18 a few that were in trouble?

19 MRS. CHICLACOS: Objection to form.

20 THE WITNESS: I just remember, you know,  
21 writing up, doing more than three. I don't know that  
22 it's true, I'm just -- I'm trying to be fair here.

23 BY MR. HARMAN, JR.:

24 Q. You remember writing up others, you just  
25 don't remember who?

1 MRS. CHICLACOS: Objection to form.

2 THE WITNESS: Yeah.

3 BY MR. HARMAN, JR.:

4 Q. What was the problem with Larry's  
5 performance, other than -- you testified that you  
6 provided description with some adjectives about his  
7 performance, and you said that you believed that  
8 during the friends and family he only did 9,000. Were  
9 his numbers low?

10 A. Yes.

11 MRS. CHICLACOS: Objection to form.

12 MR. HARMAN, JR.: What is wrong with, "were  
13 his numbers low?" What is wrong with that form of  
14 that question?

15 MRS. CHICLACOS: It was the previous  
16 colloquy before you ask that question.

17 MR. HARMAN, JR.: Were his numbers low was  
18 not an objectionable question.

19 BY MR. HARMAN, JR.:

20 Q. Were his numbers low?

21 A. Yes.

22 Q. Okay. When did they start? When did you  
23 perceive that his numbers were low for the first time?

24 A. After Larry came back his number were low,  
25 he needed to get them up.

1 Q. And during that time did anyone else have  
2 low numbers?

3 MRS. CHICLACOS: Objection to form.

4 THE WITNESS: Yes.

5 BY MR. HARMAN, JR.:

6 Q. Who else had low numbers?

7 A. Again, Rafael and Karen I know. I don't  
8 remember who else.

9 Q. But there were others?

10 MRS. CHICLACOS: Objection to form.

11 THE WITNESS: I'm not sure.

12 BY MR. HARMAN, JR.:

13 Q. You say you remember writing up others?

14 A. I remember writing up others, I'm not a  
15 hundred percent sure. I mean, I can't remember from  
16 so many years ago.

17 Q. Okay. But we are talking, it's 2013, we are  
18 talking about the spring of 2011?

19 A. I'm 66 years old.

20 Q. Yeah, but you seem pretty sharp to me.

21 A. I'm not stupid but I'm not -- listen, I ran  
22 with 34 sales associates, 34, okay? You do on a daily  
23 basis talk to a lot of sales associates, motivate, do  
24 this, do that, do other things. I don't want to  
25 give -- I am under oath. I don't want to give you

1     answers that I'm not a hundred percent about.

2           Q.     Okay.  And I don't want you to speculate,  
3     and I also don't want to engage in any kind of  
4     argument with you.  But I do want to get to the core  
5     of the matter, and the core of the matter is -- well,  
6     strike that.

7                     Were Larry's numbers the lowest of the 34?

8           A.     I don't remember.

9           Q.     Why did you terminate him?

10          A.     I terminated Larry because he was way past  
11     where he could come back.  I think he was trying to  
12     trending to something like 600,000.  Garden City is  
13     one of the highest producing stores.  I am a manager  
14     that's running a business.  I gave him numerous  
15     opportunities, numerous opportunities to help him.  I  
16     gave him numerous opportunities to relocate to bring  
17     his numbers up in another store and then come back.  I  
18     did everything in my power.  The last thing in the  
19     world that I wanted to do is fire another human being.

20          Q.     Okay.  Did anyone force you to fire him?

21          A.     No, it was a joint, joint decision.

22          Q.     Who was it a joint decision with?

23          A.     Me, Jim Powers, my VP, and my regional.

24          Q.     Who's your regional?

25          A.     Tony Bender.

1 Q. Did you terminate anyone else in 2011?

2 A. I don't believe so.

3 Q. Did you terminate anyone else in 2010?

4 A. I think that's the year I terminated that  
5 young fellow, I can't remember his name.

6 Q. Okay. So is it fair to say in the last two  
7 years of your employment with Raymour and Flanigan  
8 you've only terminated two people, is that correct,  
9 that you recall?

10 A. That I recall, yes.

11 Q. And that would have been at least 34 sales  
12 associates; is that correct?

13 A. Uh-huh.

14 Q. Okay.

15 A. Okay.

16 Q. And who was present when you terminated  
17 Larry?

18 A. I terminated him alone, with just me and  
19 Larry.

20 Q. What did you say to him?

21 A. I told him that we couldn't keep him any  
22 further, his numbers were below performance. Here is  
23 one, in all the years, in all the companies I worked  
24 for that I've terminated people, Larry made it the  
25 easiest for me out of everybody. He was prepared. He

1 said to me, "I was waiting for it to happen." He knew  
2 it was coming. Normally when you terminate somebody  
3 you walk them to the door and let them leave. Larry  
4 was fine with this. He asked me if, "Do you think  
5 they are going to hold back my unemployment?" I said,  
6 "No, why would they do that, we are terminating you?"  
7 And, you know, I said, "There's no way that's ever  
8 going to happen." When he left he asked me if he  
9 could say good-bye to everybody in the office, I did  
10 not stop him. We left on good terms. He made my life  
11 so easy and it's the hardest part of my manager's job.

12 Q. You understand that he sued you initially  
13 individually for age and disability discrimination, do  
14 you understand?

15 A. I understand that.

16 Q. Okay. When you terminated him in 2011, at  
17 that time, did anyone else have numbers that were as  
18 low or lower than Larry?

19 A. I'm not sure, but if that were --

20 Q. Just please answer my question. You are not  
21 sure?

22 A. Okay.

23 Q. Okay. And at the end of 2010 -- well,  
24 strike that.

25 Would you -- these reports that were

1 generated by the reports that were generated every two  
2 to three months by the team managers, is that what  
3 they are called, team managers?

4 A. Showroom managers.

5 Q. Showroom managers, would you review those?

6 MRS. CHICLACOS: Objection to form.

7 THE WITNESS: Yes.

8 BY MR. HARMAN, JR.:

9 Q. And so there would have been at least two  
10 reports by June of 2011?

11 A. I would say yes.

12 Q. And how many showroom managers were there?

13 A. Three.

14 Q. What were their names?

15 A. They've changed. When I started I think it  
16 was Kevin Sagendorph, he's now a manager in New York  
17 City somewhere.

18 Q. Sagendorph?

19 A. Sagendorph.

20 Q. Can you spell it?

21 A. S-a-g-e-n-d-o-r-p-h, Raf -- not Rafael, my  
22 mined is not great. Can I look at my phone?

23 MRS. CHICLACOS: No.

24 THE WITNESS: I can't look at my phone.

25 Cary, Theresa -- Theresa who is now in Lake Grove was

1 one of my managers.

2 BY MR. HARMAN, JR.:

3 Q. Theresa, what's Theresa's last name?

4 A. Masera.

5 Q. Masera?

6 A. Yeah. How sad for me, it really for me.

7 Q. Why is that?

8 A. Because I can't remember, you know. I put  
9 Raymour out of my mind totally when I walked away from  
10 there and I don't talk to those people anymore.

11 Q. Let's just keep it still approximately. Let  
12 me give you an example just so that you understand  
13 that. I understand I have 30 some odd cases, I manage  
14 about 10 employees during all sorts of different  
15 things. Sometimes I really don't remember what  
16 happened in court yesterday because I'm juggling a lot  
17 of things so I understand. I'm only asking you to  
18 tell me now if you only remember a first name or a  
19 gender, just tell me what you remember and we'll move  
20 on, okay? So three managers, you have Kevin, Theresa,  
21 and is there a third?

22 A. Well, Kevin -- really Joann. Joann.

23 Q. And these three individuals would have  
24 generated reports every few months during the first  
25 six months of 2011?



1           A.     2011.

2                   MR. HARMAN, JR.: I'm calling for the  
3 production of those reports.

4                   THE WITNESS: I'm pretty sure they were  
5 there in 2011, I could be wrong. They would have  
6 changed managers because things changed all the time.

7                   MR. HARMAN, JR.: Okay. I'm calling for the  
8 approximate of the reports that were generated by the  
9 three showroom managers.

10                  THE WITNESS: That's A better answer.

11                  MR. HARMAN, JR.: During the first six  
12 months, actually during the first nine months of 2011  
13 until you went out on disability, whether those  
14 showroom managers were Kevin, Theresa or Joann or  
15 some other person, I'm going to call for the  
16 production of those reports that were generated by  
17 those individuals during that period.

18                  And I know you think I'm asking the same  
19 questions over and over again, but I want to be clear  
20 so that we can move on. Other than what you've  
21 already testified to with respect to Larry and with  
22 respect to Rafael and with respect to Karen, do you  
23 remember any specific individual who had low numbers  
24 during the 2011 period?

25                  MRS. CHICLACOS: Objection to form.

1 THE WITNESS: No.

2 BY MR. HARMAN, JR.:

3 Q. The other thing I want to be clear about is,  
4 you testified that you were told that in 2010 only one  
5 individual did not meet their numbers; is that  
6 correct?

7 MRS. CHICLACOS: Objection to form.

8 THE WITNESS: I believe, that's what I  
9 remember.

10 BY MR. HARMAN, JR.:

11 Q. So you only encountered problems with  
12 multiple individuals meeting their numbers in 2011; is  
13 that correct?

14 MRS. CHICLACOS: Objection to form.

15 THE WITNESS: Yes.

16 BY MR. HARMAN, JR.:

17 Q. Did you did Larry ever ask to take a break  
18 to sit down?

19 A. No.

20 Q. Did he ever tell you his back hurt?

21 A. No.

22 Q. Do you understand that his claim as part of  
23 this lawsuit that he had sciatica?

24 A. No.

25 Q. So you have no understanding that he had a

1 flare up of sciatica?

2 A. No.

3 Q. That was never mentioned to you?

4 A. No.

5 Q. Do you understand that he claims he had  
6 problems with his back?

7 A. I know he went out for an operation on his  
8 back.

9 Q. When he returned from the operation, do you  
10 understand that he claims that at some point he had  
11 back problems that prevented him from standing for a  
12 long period of time?

13 A. No.

14 Q. You were never made aware of that?

15 A. Never.

16 Q. Okay. As you sit here today, do you believe  
17 that Larry was your worse performer in 2011?

18 A. Yes.

19 Q. Okay. Are you positive of that?

20 A. No.

21 Q. Okay. Do you understand that as part of  
22 Mr. -- as part of Larry's lawsuit, that he claims that  
23 he requested reasonable accommodation that he be  
24 allowed to rest for short periods of time while on the  
25 sales floor so as not to exacerbate his condition?

1           A.    I did not read Larry's lawsuit so I have no  
2    idea.

3           Q.    Well, I'm telling you that that's what it  
4    says. And you are telling me that you have no  
5    understanding of that; is that correct?

6           A.    That's correct.

7           Q.    Okay. Are you positive that Karen was put  
8    on the performance plan?

9           A.    I'm not positive. I believe Karen was one  
10   of the ones. I think it was Karen.

11          Q.    Well, you testified that Rafael was on a  
12   performance plan; is that correct?

13          A.    Yes.

14          Q.    Because to the extent that records haven't  
15   been produced, we are going to ask for production of  
16   those records and you've testified them, so you  
17   believe that Rafael was on the performance plan,  
18   correct?

19          A.    Correct.

20          Q.    Do you believe that Karen was on a  
21   performance plan?

22          A.    I do recollect that Karen was on it, but I'm  
23   not -- you know, yes, I believe that.

24          Q.    And he was on a performance plan during that  
25   same period in 2011?

1           A.     Yes.

2           Q.     But you don't remember anybody else who was  
3 on the performance plan?

4           A.     No.

5           Q.     And did you ever ask Larry when he planned  
6 to retire?

7           A.     No.

8           Q.     Did you ever hear anyone ask Larry when he  
9 planned to retire?

10          A.     No.

11          Q.     Did you plan to retire?

12          A.     No.

13          Q.     So with the exception of your health issues,  
14 you had planned to continue working indefinitely?

15          A.     Correct.

16          Q.     So you never discussed your retirement plan  
17 with anybody?

18          A.     No, I wouldn't.

19          Q.     Did you ever hear anybody in the workplace  
20 discuss their retirement plans?

21          A.     No.

22          Q.     Okay. Do you understand that -- well, I'm  
23 going to tell you that as part of the allegations in  
24 this lawsuit, Larry is claiming that he was referred  
25 to as old man. Did you ever hear that?

1           A.    Larry's nickname --

2           Q.    Please just --

3           A.    No.

4           Q.    So you are saying that you did not hear  
5 that?

6           A.    No.

7           Q.    Okay.

8           A.    Absolutely not.

9           Q.    Did anyone ever tell you that Larry was  
10 being referred to as old man?

11          A.    No.

12          Q.    And can you tell me -- you said you  
13 testified that you tried to get him another position  
14 at another store, why would you do that?

15          A.    Because he was floundering with his numbers.  
16 And instead of firing him -- he was a superstar in  
17 call place and sometimes when somebody is floundering  
18 they can windup going back to where they were or to  
19 another store and instead showing on the bottom of so  
20 many superstars in Garden City you go to a store with  
21 people that do not perform as well. And somebody  
22 that's in Garden City can come up the ranks in Glen  
23 Cove and windup back on the top. And then if he got  
24 to that point, we could have transferred him back  
25 over.

1 Q. But he didn't transfer to the other store?

2 A. No, he didn't. When I -- okay.

3 Q. Yes or no?

4 A. No.

5 Q. Okay. Well, you testified you never read  
6 the complaint, so I'm going to tell you that the  
7 complaint says that Mr. Larry alleges that eight  
8 employees were on a coaching plan and that he was the  
9 only one of the eight employees that was terminated.

10 A. Could be.

11 Q. Could be. So you don't have any reason to  
12 believe that that's false?

13 A. No, but again --

14 Q. Just answer my questions, please.

15 Okay. So you have no reason to believe that  
16 that's a false statement?

17 A. Right.

18 Q. And as you said here today, you believe  
19 Larry's numbers were the lowest of the 34?

20 A. As far -- I'm not sure.

21 Q. Okay. So when you terminated him, was it  
22 based on his numbers?

23 A. It was based on his number performance, yes.

24 Q. Was it based on anything else?

25 A. No.

1 Q. Just on his numbers?

2 A. Personally it was all done on performance.

3 Q. And by performance you mean solely based on  
4 his numbers?

5 A. Yes.

6 Q. On his sales numbers?

7 A. Correct.

8 Q. Okay. And do you recall whether or not  
9 Larry had been out for any period of time during 2011?

10 A. I don't recall if Larry took time, I don't  
11 believe he did. I don't know. I can't say for sure.

12 Q. Have you ever had any conversation, other  
13 than with Jessica and with the individual from -- the  
14 legal individual from Raymour that you spoke about  
15 earlier, have you had any conversation with anyone  
16 about this lawsuit?

17 A. No.

18 Q. Are you married?

19 A. Yes.

20 Q. Did you discuss this lawsuit with your  
21 husband?

22 A. No.

23 Q. Have you discussed this lawsuit with any of  
24 your former colleagues?

25 A. No.



1           Q.    Okay.  And by discussion I mean any kind of  
2   communication?

3           A.    No.

4           Q.    Have you sent e-mails to anyone?

5           A.    No.

6           Q.    Do you text message?

7           A.    Occasionally.

8           Q.    Have you texted anyone regarding Larry?

9           A.    No.

10          Q.    Okay.  When did you say you first learned  
11   about this lawsuit?

12          A.    Exactly when or -- a long time ago when Ed  
13   called me to tell me that I was being named in a  
14   lawsuit.

15          Q.    You said Ed called you?

16          A.    Yes.

17          Q.    Who's Ed?

18          A.    I think he's the represent -- legal  
19   representation from Raymour and Flanigan.

20          Q.    So Ed called you to tell you you were named  
21   in a lawsuit, and what was your reaction to that?

22          A.    "For what?"

23          Q.    To being named in the lawsuit.

24          A.    I said, "For what?"  That's what I said to  
25   Ed.

1           Q.    Okay.  And did he explain why you were  
2    named?

3                   MRS. CHICLACOS:  No, I instruct her not to  
4    answer, it's privileged.

5    BY MR. HARMAN, JR.:

6           Q.    To the extent that you were having a  
7    conversation with the lawyer, that's privileged, I'm  
8    not asking you about that.  What was your reaction to  
9    being named in a lawsuit?

10          A.    Surprised.

11          Q.    Okay.  Why?

12          A.    Because when we left, when Larry and I left,  
13    he was the easiest person that I ever had to fire.  He  
14    was prepared, ready, asking about unemployment.  
15    Shocked that two years later, after he collected  
16    unemployment, he was going to do something like this.  
17    For what, when he knew that he, as far as I felt, when  
18    I sat down with Larry that day to fire him, he was a  
19    hundred percent knowing that this was coming.  He was  
20    prepared for it.  I had no feeling whatsoever that he  
21    was feeling that Raymour did something wrong to him or  
22    anything like that, so, of course, I was shocked.

23          Q.    Well, Mrs. Goldstein, in all fairness, you  
24    mean -- the lawsuit was filed less than a year after  
25    he was terminated.  You understand that?

1 MRS. CHICLACOS: Objection to form.

2 THE WITNESS: I did not -- I don't know  
3 when the lawsuit was filed.

4 BY MR. HARMAN, JR.:

5 Q. The lawsuit was filed in March of 2012.

6 A. Okay.

7 Q. Okay. And he was terminated in June  
8 of 2011.

9 A. Uh-huh.

10 Q. Okay. And a letter went out the Raymour and  
11 Flanigan many months prior to that?

12 MRS. CHICLACOS: Objection to form.

13 THE WITNESS: I had no idea.

14 BY MR. HARMAN, JR.:

15 Q. Were you ever instructed to preserve any  
16 information with respect to Larry?

17 A. I was told not to mention to anybody about  
18 this, and I did not.

19 Q. Okay. Were you ever told that any point  
20 while you were employed to preserve documents and  
21 information -- strike that.

22 Did you ever make any efforts to preserve  
23 documents and information with respect to Larry  
24 Friedmann while you were employed at Raymour and  
25 Flanigan?

1           A.     All documents were sent up to corporate.

2           Q.     Okay.   But that's not answering my question.

3   Did you ever make any efforts to preserve documents  
4   and information?

5           A.     Yes.

6           Q.     Okay.   So you would, in the normal course of  
7   your work responsibilities as a manager, you would  
8   send documents to HR; is that correct?

9                   MRS. CHICLACOS:  Objection to form.

10                  THE WITNESS:  Yes.

11   BY MR. HARMAN, JR.:

12           Q.     Have you ever been involved, during your  
13   tenure at Raymour and Flanigan, that Raymour and  
14   Flanigan was being sued for any reason?

15                  MS. CHICLACOS:  Objection to form, and I'm  
16   instructing the witness not to answer subject to the  
17   discovery disputes before Magistrate Tomlin.

18           Q.     Were you ever -- were you ever advised to  
19   preserve documents and information with respect to  
20   Larry Friedmann?

21           A.     No.

22           Q.     Did you ever make any special efforts to  
23   look for or preserve documents and information with  
24   respect to Larry Friedmann?

25                  MRS. CHICLACOS:  Objection to form.

1 THE WITNESS: No.

2 BY MR. HARMAN, JR.:

3 Q. Just so the record is clear, other than  
4 Jessica, have you had any conversations with anyone  
5 since you terminated Larry Friedmann about Larry  
6 Friedmann?

7 A. No.

8 MRS. CHICLACOS: Can I take a five-minute  
9 bathroom break, please?

10 MR. HARMAN, JR.: Sure.

11 [Short recess taken.]

12 [The Documents were marked for identification as  
13 Plaintiff's Goldstein's Exhibits 1, 2 and 3.]

14 BY MR. HARMAN, JR.:

15 Q. I'm sorry, in the midst of my traveling I  
16 arrived without a stapler and paperclips, you'll have  
17 to forgive me, we'll have to work without them.

18 Mrs. Goldstein, I'm handing you what has  
19 been marked for identification as P for  
20 plaintiff-Goldstein 1. Can you please take a look at  
21 this document?

22 A. I see, yes.

23 Q. Do you recognize this document?

24 A. Yes.

25 Q. What is it?

1 A. Coaching plan.

2 Q. Okay. For the record it's a document  
3 entitled Coaching For Success and it has the  
4 associate's name, Larry Friedmann, date of review,  
5 5-7-11. Did you prepare this document?

6 A. Yes.

7 Q. Okay. This is a two-page document, it's  
8 Bates stamped D 000039 and D 000040.

9 When you say "coaching plan," is this what  
10 you are referring to?

11 A. Uh-huh, yes.

12 Q. Okay. And did you provide a coaching -- so  
13 coaching for success is a coaching plan?

14 A. Correct.

15 Q. Okay. And did you provide a coaching plan  
16 to Larry Friedmann on May 7th of 2011?

17 A. Yes.

18 Q. Okay. Did you draft this document?

19 A. I did.

20 Q. And had you provided a coaching plan  
21 prior -- to Larry Friedmann prior to this date?

22 A. I don't remember.

23 Q. Okay. Can you please read what's in the  
24 box? Can you please read it out loud?

25 A. "I want to review with you your

1 underperformance for delivered sales. The date range  
2 is from January 1st, 2011 to May 5th, 2011. You  
3 underperformed for this year to date to the minimum  
4 expectation of 252,750 in delivered sales by 53,537.  
5 This dollar amount is based on your 750 business  
6 planner for 2011 that we will review. You are also  
7 underperforming to the minimum expectation for  
8 delivered sales for the year and are currently  
9 projected to finish the year at 617,435.

10 Below will be your specific goals by  
11 category for next two weeks and will include in  
12 additional dollar in written and delivered  
13 expectations per week to help catch up to the amount  
14 you are short."

15 Q. Okay. Is there anything in what you just  
16 read that you believe is inaccurate?

17 A. No.

18 Q. Okay. And you have no recollection as to  
19 whether you gave Mr. Friedmann or Larry a coaching  
20 plan prior to this date?

21 MRS. CHICLACOS: Objection to form.

22 THE WITNESS: Don't remember.

23 BY MR. HARMAN, JR.:

24 Q. Okay. And you have no reason to believe  
25 that these numbers --

1 MS. CHICLACOS: Do you have to answer the  
2 phone?

3 THE WITNESS: It's not my phone, it's just  
4 letting me know I have to take a certain medicine.

5 MR. HARMAN, JR.: You want to just take the  
6 medicine? We'll take a break.

7 THE WITNESS: But let me finish the  
8 question.

9 BY MR. HARMAN, JR.:

10 Q. Okay. And you have no reason to believe  
11 that these numbers in this box that you just read are  
12 inaccurate?

13 A. No reason.

14 Q. Please take your medicine and do what it is  
15 you need to do.

16 [Short recess taken.]

17 BY MR. HARMAN, JR.:

18 Q. Back to Goldstein 1. So you were indicating  
19 or you were explaining, you've explained to Larry -- I  
20 take it you met with him on May 7; is that correct?

21 MRS. CHICLACOS: Objection to form.

22 THE WITNESS: Correct.

23 BY MR. HARMAN, JR.:

24 Q. And that you told him that he was targeted  
25 as of May 7 to hit 617,000 in sales. And what would



1 have been his expectation?

2 A. 750.

3 Q. Okay. And do you have any recollection as  
4 to whether he had taken any time off during the  
5 calendar year 2011?

6 A. I can't -- I don't remember.

7 Q. Okay. Going down to the goals for coaching  
8 for success, this says, "Use specific quantitative  
9 measures whenever possible. Clearly describe all  
10 behavioral issues as they relate to and affect team  
11 morale, departmental/individual performance, customer  
12 impact." Did you do that in this form? I mean, in  
13 other words --

14 A. Describe behavioral issues. No, because I  
15 don't think it was -- it was performance that we were  
16 worried about.

17 Q. So there weren't behavioral issues?

18 A. No, not ...

19 Q. Not from your perspective?

20 A. No.

21 Q. No. And then it looks like, and this is not  
22 a form that I'm generally familiar with, it looks like  
23 there were written expectations that were set; is that  
24 correct?

25 A. That's correct.

1 Q. Okay. Who set them?

2 A. I did.

3 Q. Okay. And then the first column says,  
4 written expectation and then it says week one and then  
5 it has week one blank. So you had a written  
6 expectation for week one for \$24,000; is that correct?

7 A. Yes.

8 Q. And then right below it it says actual  
9 written and it's blank.

10 A. Yes, because if you look up in the right  
11 hand it says, next review date was 5/21.

12 Q. Uh-huh.

13 A. And that's when the numbers should be put  
14 in.

15 Q. Okay. Was there a review date on 5/21?

16 A. I believe there was. I don't know if it was  
17 5/21, but there was one after it. There should have  
18 been one after it.

19 Q. Well, I don't have it.

20 MRS. CHICLACOS: It was produced.

21 BY MR. HARMAN, JR.:

22 Q. There's a column in Section 2 that says  
23 delivered expectation. What does that mean?

24 A. The sales associates each got a performance  
25 chart. I don't know if you have it there.

1 Q. Uh-huh.

2 A. And let's say this is May, so in May he  
3 might have been -- his expectation is to deliver let's  
4 say it's 16,000.

5 Q. Uh-huh?

6 A. But because Larry is 53,000 behind, I added  
7 another 4,000 in hoping for him to start to move in  
8 the right decision -- in the right way.

9 Q. So his written expectations were higher than  
10 they normally would have been?

11 A. Yes, we are trying to move him in the right  
12 direction.

13 Q. Okay. And the delivered expectations would  
14 have been the normal expectations that you would have  
15 had for him?

16 A. All of these numbers -- written and  
17 delivered would have been higher.

18 Q. So both sections were higher than they  
19 normally would have been?

20 A. Trying to get him to build up. The other  
21 three, AGP, platinum and bedding remained the same.

22 Q. Okay. What type of -- gosh, I don't know  
23 why I'm having such a difficult time with this  
24 question.

25 Is May a busy time of the year?

1 A. No.

2 Q. So what's the busy time of the year?

3 A. September, October, November.

4 Q. Okay.

5 A. Although, May is -- this was May 7th. May  
6 was friends and family but this was after friends and  
7 family was over.

8 Q. So this was after friends and family was  
9 over, not a busy time of a year?

10 A. It slows down.

11 Q. So if Larry was to improve in order to keep  
12 his job, he would have had to have met these  
13 expectations?

14 A. Yes. You know, I don't want to elaborate,  
15 so I guess the answer is yes.

16 Q. I just want you to answer the question.

17 A. Okay.

18 Q. And did you set written expectations during  
19 this period for other employees?

20 A. Sure. Anybody that was on a coaching plan.

21 Q. And you testified that you recalled that  
22 Karen was on a coaching plan and that I think it's  
23 Mr. Bruno, Charlie Bruno?

24 A. No, Rafael.

25 Q. Rafael was on a coaching plan, sorry.

1 Rafael was on a coaching plan.

2 Now, if Rafael was on a coaching plan, would  
3 you are filled out the same coaching for success form?

4 MRS. CHICLACOS: Objection to form.

5 THE WITNESS: No.

6 BY MR. HARMAN, JR.:

7 Q. Okay. Why not?

8 A. Depends how -- Larry was behind 53,000. If  
9 Rafael was behind, let's say, 22,000, I wouldn't have  
10 had to put as much into his numbers to go forward to  
11 make them -- to get to the things for the end of the  
12 year.

13 Q. I'm going to ask you to just focus on my  
14 question.

15 A. I did.

16 Q. Would you -- if you put -- you testified  
17 that you put Rafael on a plan?

18 A. Correct.

19 Q. Okay. And that involves fulling out a form,  
20 correct?

21 A. Correct.

22 Q. And when you fill out a form, would you have  
23 given him written expectations?

24 A. Yes.

25 Q. Okay. And if he didn't meet the written

1 expectations, would he have been terminated?

2 A. Yes.

3 Q. Okay. So is it your testimony, as you sit  
4 here today, under oath, that Rafael met his  
5 expectations?

6 A. Yes.

7 MR. HARMAN, JR.: I'm going to call for the  
8 production of all performance plans for Rafael during  
9 the 2011 period. I believe I've already done so, but  
10 to the extent that I haven't, I'm going to call for  
11 production of those plans.

12 BY MR. HARMAN, JR.:

13 Q. With respect to Karen, She would have also  
14 been given written expectations; is that correct?

15 A. Yes.

16 Q. And if She didn't meet those written  
17 expectations, she would have been terminated; is that  
18 correct?

19 A. I have to say no.

20 Q. Okay. I'm going to hand you what has been  
21 marked as P-Goldstein 2. If you can please take a  
22 look at it.

23 A. Okay.

24 Q. Do you recognize this document?

25 A. Yes.

1 Q. What is it?

2 A. It's an action plan.

3 Q. Okay. Is there a difference between an  
4 action plan and a coaching for success?

5 A. Yes. An action plan is when -- it's the  
6 step before being fired.

7 Q. And when did you terminate Larry?

8 A. I don't remember. I don't have the date.

9 Q. Okay. Well, you testified earlier that you  
10 went on --

11 A. June something.

12 Q. -- leave in August and that you terminated  
13 Larry in June; is that correct?

14 A. I believe it was June.

15 Q. Okay. So this action and performance  
16 agreement, would have been shortly before his  
17 termination; is that correct?

18 A. Yes.

19 Q. And can you read what's in the box?

20 MRS. CHICLACOS: I'm just going to object,  
21 the document speaks for itself.

22 Go ahead and read it.

23 BY MR. HARMAN, JR.:

24 Q. Fine. This is a two-page document, it's  
25 entitled Action Plan and Performance Agreement, it's

1 Bates stamped D 000043 and 000044.

2 On the second page, is that your signature?

3 A. Yes.

4 Q. And it's dated 6/13/11; is that correct?

5 A. That's correct.

6 Q. And did you date it?

7 A. Yes.

8 Q. Okay. Can you read what's in the box,  
9 please?

10 MRS. CHICLACOS: On the first page, Lucy.

11 THE WITNESS: "I want to review with you  
12 your underperformance for year to date for 2011. The  
13 date range is 01/2011 to June 10, 2011. You  
14 underperformed for this year to date period to the  
15 minimum expectation of 322,875 in delivered sales by  
16 48,190. This dollar amount is based on your 750,000  
17 business planner for 2011 that we will review. You  
18 are also underperforming to the minimum expectations  
19 in written sales, AGP, platinum, bedding and --  
20 bedding percent of sales. Attached is a SAFR showing  
21 your actual numbers for year to date versus the  
22 minimum expectation in each category.

23 Below will be a specific goal by category  
24 for the next three weeks."

25



1 BY MR. HARMAN, JR.:

2 Q. Okay. This document is dated June 13th?

3 A. Correct.

4 Q. Correct?

5 A. Uh-huh.

6 Q. Do you recall Mr. -- do you recall Larry  
7 working during the month of July?

8 A. No.

9 Q. Okay. When did you decide to terminate  
10 Larry?

11 A. When or why?

12 Q. When?

13 A. I don't remember.

14 Q. Okay. But this document says that Larry had  
15 specific goals by category for the next three weeks;  
16 is that correct?

17 A. Correct.

18 Q. And you set them?

19 A. Yes.

20 Q. Okay. And if he had met them, if he had met  
21 these specific goals by category for the next three  
22 weeks, would he have been terminated?

23 A. I'm not sure. And because I wrote on the  
24 next page, "failure to meet these minimum expectations  
25 at anytime during this action plan will result in

1 further disciplinary action up to an including  
2 termination," which means to me that I might have  
3 looked at the numbers the following week and he was  
4 still falling.

5 Q. So you were already -- is it fair to say you  
6 were already contemplating terminating him at that  
7 time?

8 A. No.

9 Q. Okay. Do you know what point you decided to  
10 terminate him?

11 A. When I saw he couldn't get himself out and  
12 he didn't want to -- I did want to terminate him,  
13 that's when we said -- we gave him offers of go to  
14 another store.

15 Q. Please just answer my question.

16 With respect to the numbers, do you recall a  
17 specific week where you looked at his numbers and  
18 decide to terminate him?

19 A. No, do not remember.

20 Q. Okay. But you would agree that he did  
21 not -- he was not allowed to work the three weeks that  
22 the action plan and performance agreement  
23 contemplated?

24 MRS. CHICLACOS: Objection to form.

25 THE WITNESS: I can't answer that because I

1 don't know which date he was -- you said he was  
2 terminated on --

3 BY MR. HARMAN, JR.:

4 Q. You told me he was terminated in June.

5 A. Sometime in June, I don't know when exactly,  
6 I don't remember.

7 Q. But you do agree that this is -- this  
8 document contemplates a three-week period from  
9 June 13th?

10 A. Unless you read this statement here.

11 Q. I understand what the statement says.

12 A. Okay.

13 Q. Okay. And it also says, there would be --  
14 the next review date would be June 20th. Do you know  
15 if there was a review on June 20th?

16 A. I do not remember.

17 Q. Okay. I'm handing you what's been marked as  
18 P, for plaintiff, Goldstein Number 3. Please take a  
19 look at it.

20 A. Okay.

21 Q. Do you recognize this document?

22 A. Yes.

23 Q. What is it?

24 A. It's a performance evaluation.

25 Q. And did you complete it?

1 A. Yes.

2 Q. This is your handwriting?

3 A. Yes.

4 Q. And do you know when this performance  
5 evaluation was completed?

6 A. I don't have a date on it. I don't  
7 remember.

8 Q. Is this format typical of the type of  
9 performance evaluation that would be given to a sales  
10 associate?

11 A. Yes. This is one of our reviews.

12 Q. So they are handwritten?

13 A. Uh-huh.

14 Q. And how frequently are handwritten  
15 evaluations?

16 A. These are the ones I spoke to about maybe  
17 two to three months.

18 Q. These are the ones that are prepared by --  
19 this was prepared by you, correct?

20 A. That's correct.

21 Q. But you testified earlier that normally the  
22 reports that are prepared every two to three months  
23 are prepared by the --

24 A. Showroom managers.

25 Q. -- showroom managers?

1 MRS. CHICLACOS: Objection to form.

2 Go ahead and answer.

3 THE WITNESS: Yes, but sometimes if a  
4 showroom manager is out, I take their staff and I do  
5 it. So it could have been one of the managers was on  
6 vacation. I'm sorry.

7 MRS. CHICLACOS: Take your time.

8 [Short recess taken.]

9 BY MR. HARMAN, JR.:

10 Q. So your testimony is that you would -- this  
11 is the type of form, this P-Goldstein 3 is the type of  
12 forms that would be filled out by the showroom  
13 managers every two to three months --

14 A. Right.

15 Q. -- that would be a synopsis of the sales  
16 associate's performance and that if a showroom manager  
17 was not available for some reason that you might have  
18 filled out the form?

19 A. Correct.

20 Q. Do you recall who Mr. Friedmann's showroom  
21 manager was in 2011?

22 A. Oh.

23 Q. Lou?

24 A. No, oh, I don't remember that.

25 Q. You don't remember.

1           I've already called for the production of  
2 all of the forms for all of the sales associates for  
3 2011 of this nature, so I want the record to be clear,  
4 Jessica and the judge and I will work out the details.  
5 This is not your problem, but for the record, you've  
6 identified P-Goldstein 3 as a form that was regularly  
7 filled out for each sales associate assessing their  
8 sales performance on a period that would average every  
9 two to three months, and I'm calling for the  
10 production of all of those forms for the period 2011.

11           Now, once these forms are completed, what  
12 happens to them?

13           A. Well, they normally go up to the human  
14 resources.

15           Q. Okay. And they are sent to human resources  
16 for what purpose?

17           A. I don't know, just always did. We kept  
18 them, you know, for performance reviews. I had some  
19 in my -- you know, I have a locked cabinet, I would  
20 keep them under lock and key. You know, so if I was  
21 looking at this, I could go back maybe if the new one  
22 was -- came in and if he was doing better I can review  
23 what he did last period, you know, to see.

24           Q. Okay. For how long a period would you hold  
25 on to these in your office?

1           A.    Not long. Within the month.

2           Q.    And then you would do what with them after  
3 that?

4           A.    They would get shredded or sent up to the  
5 human resources. No copies stayed in the office.

6           Q.    When you say shredded or sent up to human  
7 resources, what was the regular practice?

8           A.    Sent up to human resources.

9           Q.    So it's your testimony that these forms  
10 would be sent to human resources and this human  
11 resources would do what if you know with them?

12          A.    I'm not sure. I'm not sure.

13          Q.    Have you ever reviewed -- strike that.

14                For your 34 sales associates, do you  
15 maintain files on them? Did you maintain files on  
16 them in your office?

17          A.    Yes.

18          Q.    Okay. And were those considered their  
19 primary personnel files?

20                MRS. CHICLACOS: Objection to form.

21                THE WITNESS: No.

22 BY MR. HARMAN, JR.:

23          Q.    By primary, each company has a different  
24 term for it --

25          A.    I used to keep in there doctor's notes or

1 things like that that they wanted me to hold on to if  
2 they came back and they were sick for a while and they  
3 got -- you know, like coming back from a leave of  
4 something like that it, send it to -- you know, we  
5 keep a copy.

6 Q. You'd keep a copy and you would send a copy?

7 A. Yes.

8 Q. And working in a big company for a long  
9 time, you know what I mean by an official personnel  
10 file?

11 A. Right.

12 MRS. CHICLACOS: Objection to form.

13 THE WITNESS: Uh-huh.

14 BY MR. HARMAN, JR.:

15 Q. Where was the official personnel file  
16 located?

17 A. Syracuse.

18 Q. In Syracuse?

19 A. Yes.

20 Q. So any important documents, would you then  
21 send them to Syracuse?

22 A. Yes.

23 Q. Would you also send this type of form to  
24 Syracuse, this form P-Goldstein 3?

25 A. We went through different changes, and I



1     don't know when they occurred, but sometimes we sent  
2     them, sometimes they wanted us to just keep them in  
3     the office under lock and key, so it could be either  
4     or.

5           Q.     Okay. Do you know what the pattern was in  
6     2011 towards the end of your time there?

7           A.     I believe we were -- I believe we were  
8     sending them to human resources, but if they are not  
9     there they are definitely in the office under lock and  
10    key.

11          Q.     Okay. Do you recall whether Mr. Friedmann  
12    ever gave you a doctor's note?

13          A.     Well, he had to have given me a doctor's  
14    note in order to come back because, you know, he had  
15    to be cleared to start to work again.

16          Q.     Okay. So that's your recollection based on  
17    the normal course of what would have had to have  
18    happened at Raymour and Flanigan, but you don't  
19    specifically recall him giving you a doctor's note?

20                 MRS. CHICLACOS: Objection to form.

21                 THE WITNESS: No.

22    BY MR. HARMAN, JR.:

23          Q.     Do you have a specific recollection of him  
24    giving you a doctor's note on any other occasion?

25          A.     No.

1 Q. Did you have any conversation with Christine  
2 Rowland about Larry?

3 A. Before I ever made a decision about anything  
4 on sales associates I would run it through the human  
5 resources for two reasons.

6 Q. Okay. I asked -- it's going to be -- I  
7 don't want to argue with you, but I'm trying to sum it  
8 up so that we can all go home.

9 A. Yes.

10 Q. Do you recall talking to Christine Rowland?

11 A. Yes.

12 Q. Okay. Do you recall what you said to her?

13 A. I wanted to know how to go forward with the  
14 documentation.

15 Q. Do you recall what she said?

16 A. She told me which form to use, where I would  
17 find it in the computer.

18 Q. Do you recall when those conversations took  
19 place?

20 A. I'm assuming June, right before he was being  
21 terminated.

22 Q. How about James Powers, do you recall -- is  
23 he an attorney?

24 A. No, Jim Powers is the vice president of the  
25 company.

1 Q. Do you recall having any conversations with  
2 him about Larry?

3 A. I think it was a consensus.

4 Q. I'm just asking about conversations.

5 A. Yes.

6 Q. And what did you say to him?

7 A. Again, he was my vice president, we sat  
8 down, we reviewed our sale associates, Larry was  
9 discussed and we felt that he was too far in the red  
10 to come back.

11 Q. And when did that conversation take place?

12 A. I believe it was after friends and family,  
13 which was in May and we, you know, discussed what  
14 we -- where we would go because nobody wanted to fire  
15 and that's when we decided to ask him about  
16 transferring or doing what we could do to help him.

17 Q. Where did that conversation take place?

18 A. It would be in Garden City, Jim Powers had  
19 his office in my store.

20 Q. He had his office in your store?

21 A. Yes.

22 Q. I see. Okay. And do you know -- do you  
23 recall if anybody else was present during that  
24 conversation?

25 A. I don't recall.

1 Q. Okay. Did you have any conversations with  
2 Larry -- did you have any conversations with Iman  
3 Cashme (phonetic)?

4 A. Iman, he was one of my showroom managers.

5 Q. Did you discuss Larry with him?

6 A. I'm sure, I'm sure we did. Iman might have  
7 been his -- he might have been his manager.

8 Q. And do you recall having any discussion with  
9 Iman about terminating Larry?

10 A. I don't remember.

11 Q. How about Patricia Delgenio?

12 A. She's human resources.

13 Q. Do you recall any conversations with her  
14 about Larry?

15 A. No, no, I don't.

16 Q. Okay. How about Laura Ambrosia?

17 A. Laura is the manager of -- did we have a  
18 conversation, yes.

19 Q. Do you recall what you said to her about  
20 Larry?

21 A. Yes, I said I was going to send Larry over  
22 for her to interview. And, you know, she asked me  
23 about him, I said, "Laura, he's good a performer, he  
24 always did well. He's falling now, but I think, you  
25 know, in a different environment you could probably

1 get him up. He always produced highly." She said she  
2 wanted to meet him, and I said sent him over.

3 Q. And when was that?

4 A. Before he was fired, maybe after -- it was  
5 in between those two things, after we decided what we  
6 were going to do and we said, let's see if we can  
7 transfer Larry to get him --

8 Q. So it was after you decided to terminate  
9 him?

10 A. No, he was not -- he was never decided to  
11 terminate. We were trying to find something to do to  
12 help him so we didn't have to terminate him.

13 Q. I see. Was the conversation with Laura  
14 Ambrosia, was it after friends and family?

15 A. Yes.

16 Q. And how about Mitchel Reich, do you know who  
17 that is?

18 A. Mitch Reich is the new manager that took my  
19 spot.

20 Q. Okay. Do you ever communicate with -- did  
21 you ever communicate with him about Larry?

22 A. No.

23 Q. And I'm not going to getting this right, but  
24 Michele G-a-i-c-c --

25 A. Giaccio, no, I've never spoken to her about

1 Larry.

2 Q. Okay. And what, if anything, did Laura say  
3 in response?

4 A. Laura said send him over.

5 Q. And what happened?

6 A. I believe she didn't take him. She didn't  
7 take him.

8 Q. Okay.

9 A. And I told him he can go down to  
10 Metropolitan Avenue and interview with that manager,  
11 and he said I'm not going there.

12 Q. Did you ask him why?

13 A. Yeah, he said he wasn't traveling there.

14 Q. But you did not want him working in your  
15 location any longer, yes or no?

16 A. No.

17 Q. Okay. I don't have any further questions.  
18 And I thank you very much and I really, really do  
19 appreciate you perseverance throughout the day.

20 A. Thank you very much sorry.

21 MRS. CHICLACOS: I don't have any  
22 questions.

23 MR. HARMAN, JR.: I know it's stuff. I  
24 recognize that you had a tough period there and I  
25 realize appreciate it.

1 THE WITNESS: Thank you very much.

2 MS. CHICLACOS: Thank you for accommodating  
3 her in her home. I assume that issue was put to bed?

4 MR. HARMAN, JR.: No, no, no, it's clear to  
5 me that there is medical issue. I had requested --

6 MRS. CHICLACOS: I had explained to her  
7 what you had requested.

8 MR. HARMAN, JR.: I requested a  
9 verification of your medical condition. I had never  
10 met you. I've now met you and I have no reason to  
11 believe that you don't have a medical condition that  
12 prevents you from traveling or leaving your home  
13 and --

14 THE WITNESS: Thank you.

15 MR. HARMAN, JR.: I'm happy to have  
16 accommodated you and made it easier for you.

17 THE WITNESS: I just worry so much. If  
18 this goes to trial, I don't know what I would have to  
19 do.

20 MRS. CHICLACOS: That's a long ways about.

21 MR. HARMAN, JR.: Don't worry about that  
22 now.

23

24

25